

S E R V E D

August 16, 2010

FEDERAL MARITIME COMMISSION

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

DOCKET NO. 06-01

**WORLDWIDE RELOCATIONS, INC.; MOVING SERVICES, L.L.C.;
INTERNATIONAL SHIPPING SOLUTIONS, INC.; DOLPHIN INTERNATIONAL
SHIPPING, INC.; BOSTON LOGISTICS CORP.; TRADEWIND CONSULTING, INC.;
GLOBAL DIRECT SHIPPING; MEGAN K. KARPICK (A/K/A CATHERINE KAISER,
KATHRYN KAISER, CATHERINE KERPICK, MEGAN KAISER, AND ALEXANDRIA
HUDSON); MARTIN J. MCKENZIE; PATRICK JOHN COSTADONI; LUCY NORRY;
BARUCH KARPICK; AND SHARON FACHLER – POSSIBLE VIOLATIONS OF
SECTIONS 8, 10, AND 19 OF THE SHIPPING ACT OF 1984 AND THE
COMMISSION'S REGULATIONS AT 46 C.F.R. §§ 515.3, 515.21, AND 520.3**

INITIAL DECISION OF ERIN MASSON WIRTH, ADMINISTRATIVE LAW JUDGE¹

I. INTRODUCTION

A. Overview and Summary of Decision

By Order of Investigation and Hearing dated January 11, 2006, the Federal Maritime Commission ("Commission") instructed the Bureau of Enforcement ("BOE") to commence an investigation into the activities of nine corporations and fourteen individuals for possible violations of sections 8, 10, and 19 of the Shipping Act of 1984 ("Shipping Act") at 46 U.S.C. §§ 40501, 41102, 40901, and 40902, and the Commission's regulations at 46 C.F.R. §§ 515.3, 515.21, and 520.3, noting numerous consumer complaints filed with the Commission's Office of Consumer Affairs and Dispute Resolution Services ("CADRS"). *Worldwide Relocations*, FMC No. 06-01 (January 11, 2006) (Order of Investigation and Hearing).

¹ The initial decision will become the decision of the Commission in the absence of review by the Commission. Rule 227, Rules of Practice and Procedure, 46 C.F.R. § 502.227.

Section 8(a) of the Shipping Act requires every common carrier to publish a tariff system including “its rates, charges, classifications, rules, and practices.” 46 U.S.C. § 40501. Section 19(a) of the Shipping Act states that no person² may act as an ocean transportation intermediary unless that person holds a license issued by the Commission, and section 19(b) states that no person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety. 46 U.S.C. §§ 40901, 40902. Claims of violations of section 10 were not presented and accordingly, the section 10 claims (46 U.S.C. § 41102) will be dismissed.³

The Shipping Act recognizes two types of ocean transportation intermediaries (“OTIs”). 46 U.S.C. § 40102(19). An ocean freight forwarder (“OFF”) is a person that dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers, and processes the documentation or performs related activities incident to those shipments. 46 U.S.C. § 40102(18). A non-vessel-operating common carrier (“NVOCC”) is a common carrier that does not operate the vessels by which the ocean transportation is provided and is a shipper in its relationship with an ocean common carrier. 46 U.S.C. § 40102(16). NVOCCs are common carriers, which is defined as a person that holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation, assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6).

During the course of the proceedings, charges were dismissed against a number of respondents. There are seven remaining corporate respondents: International Shipping Solutions, Inc. (“International Shipping Solutions” or “ISS”); Dolphin International Shipping, Inc. (“Dolphin

² Pursuant to 1 U.S.C. § 1, “the word[] ‘person’ . . . include[s] corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.” 1 U.S.C. § 1.

³ BOE stated in its brief that:

The Order [of Investigation and Hearing] required investigation of allegations that any Respondents violated Section 10(d)(1) of the Act and recited a number of acts alleged by various complaining shipper/customers which could constitute Section 10 violations. No specific section 10(d)(1) violation was alleged in the Order [of Investigation and Hearing] against any particular Respondent but the conduct described was based upon information received in complaints against the collective group of Respondents. The investigation has not developed sufficient evidence to support Section 10(d)(1) violations and BOE does not intend to present evidence directed at such violations by individual Respondents.

BOE’s Brief and Proposed Findings of Fact (“BPFF”) at 1 n.2.

International Shipping” or “Dolphin”); Worldwide Relocations, Inc. (“Worldwide Relocations” or “WWR”); Boston Logistics Corp. (“Boston Logistics”); Tradewind Consulting, Inc. (“Tradewind Consulting” or “Tradewind”); Moving Services, L.L.C. (“Moving Services”); and Global Direct Shipping (“Global Direct Shipping” or “GDS”). There are six remaining individual respondents: Megan Karpick (a.k.a. Catherine Kaiser, Kathryn Kaiser, Catherine Kerpick, Megan Kaiser, and Alexandria Hudson); Baruch Karpick; Martin McKenzie; Patrick Costadoni; Lucy Norry; and Sharon Fachler. The individual respondents were named so that liability could be imposed on them for the acts of the corporate respondents. BOE Reply (“BReply”) at 34.

BOE alleges that the respondents, combined, made six hundred seventy-eight individual shipments that violated the Shipping Act. The Order of Investigation and Hearing describes the corporate respondents as “apparently related household goods moving companies.” Order of Investigation and Hearing at 1. There are essentially three loosely related groups. Baruch Karpick and his wife at the time, Megan Karpick, ran International Shipping Solutions. Megan Karpick ran Dolphin with Baruch Karpick and later with her current husband Martin McKenzie. Megan Karpick, Baruch Karpick, and Patrick Costadoni previously worked together at non-party Globe Movers. Patrick Costadoni opened Worldwide Relocations with the assistance of his mother, Lucy Norry, who later opened Boston Logistics and Tradewind Consulting. Sharon Fachler owned Moving Services, where he employed some people who later worked at Worldwide Relocations. Sharon Fachler later opened Global Direct Shipping.

Although the business models and operations varied, the respondents all advertised themselves, primarily over the Internet, as international moving companies specializing in moving household goods and personal effects. Some of the respondents advertised themselves as moving consultants or coordinators, but they each advertised in their own name. Each respondent offered door to door shipping and charged one fee for the entire shipment. Each respondent hired licensed, secondary NVOCCs to ship the goods and each respondent maintained control over the shipment through delivery at destination.

As discussed more fully below, the evidence demonstrates that all of the remaining corporate respondents operated as NVOCCs on a total of six hundred forty-nine individual shipments by holding out to the general public that they provided transportation by water of cargo between the United States and a foreign country for compensation, assuming responsibility for the transportation from the port or point of receipt to the port or point of destination, and using, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country without publishing a tariff, having an OTI license, or furnishing proof of financial responsibility. The evidence further shows that civil penalties are appropriate for willful and knowing violations of the Shipping Act. The corporate veil is pierced, and liability extended to each of the individual respondents, with the exception of Martin McKenzie. In addition, cease and desist orders are imposed against all of the respondents, with the exception of Martin McKenzie. Prior to addressing specific findings of fact, analysis, and the Order, a summary of the procedural background and evidence is provided.

B. Procedural Background

On January 11, 2006, the Commission issued the Order of Investigation and Hearing in this matter. This Order directs that the following specific issues be determined:

- 1) Whether the Respondents violated sections 8,⁴ 10⁵ and 19⁶ of the Shipping Act of 1984 and the Commission's regulations at 46 C.F.R. Parts 515 and 520 by operating as non-vessel-operating common carriers . . . in the U.S. trades without obtaining licenses from the Commission, without providing proof of financial responsibility, without publishing an electronic tariff, and by failing to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property;
- 2) Whether, in the event one or more violations of sections 8, 10 and 19 of the Shipping Act of 1984 and 46 C.F.R. Parts 515 and 520 are found, civil penalties should be assessed and, if so, the identity of the persons and/or corporations to whom the penalties should be assessed and the amount of the penalties to be assessed; [and]
- 3) Whether, in the event violations are found, appropriate cease and desist orders should be issued[.]

Order of Investigation and Hearing at 7.

The Order of Investigation and Hearing names Moving Services, L.L.C.; Worldwide Relocations, Inc.; International Shipping Solutions, Inc.; Dolphin International Shipping, Inc.; All-in-One Shipping, Inc.; Boston Logistics Corp.; Around the World Shipping, Inc.; Tradewind Consulting, Inc.; Global Direct Shipping; Sharon Fachler; Oren Fachler; Lucy Norry; Patrick Costadoni; Steve Kuller; Megan Karpick (a.k.a. Catherine Kaiser; Kathryn Kaiser, Catherine Kerpick, Megan Kaiser, and Alexandria Hudson); Barbara Deane (a.k.a. Barbara Fajardo); Baruch Karpick; Martin McKenzie; Joshua Morales; Elizabeth Hudson; Daniel Cuadrado (a.k.a. Daniel Edward); Ronald Eaden; and Robert Bachs. Order of Investigation and Hearing at 1-2. BOE was also named a party to this proceeding. Order of Investigation and Hearing at 8.

Pursuant to section 11(h) of the Shipping Act, 46 U.S.C. 41307(a), on January 12, 2006, the Commission filed a complaint and a motion for a preliminary injunction in United States District Court for the Southern District of Florida against All-in-One Shipping, Inc., Around the World Shipping, Inc., Boston Logistics Corp., Global Direct Shipping, Daniel Cuadrado, Elizabeth Hudson, and Joshua Morales, requesting that the court enjoin any conduct in violation of the Shipping Act.

⁴ 46 U.S.C. § 40501.

⁵ 46 U.S.C. § 41102.

⁶ 46 U.S.C. §§ 40901, 40902.

The Commission's motion was granted on January 17, 2006. *FMC v. All-in-One Shipping, Inc., Around the World Shipping, Inc., Boston Logistics Corp., Global Direct Shipping, Daniel Cuadrado, Elizabeth F. Hudson, and Joshua Morales*, No. 06-CV-60054-MGC (S.D. Fl. Jan. 17, 2006) (order granting preliminary injunction).

Four respondents (two corporations and two individuals) have settled the claims against them. *Worldwide Relocations*, FMC No. 06-01 (ALJ Mar. 15, 2007) (Decision on Remand Approving Settlement Agreements) (approving settlements between BOE and Joshua Morales and All-in-One Shipping, Inc., and between BOE and Daniel Cuadrado and Around the World Shipping, Inc.); *Worldwide Relocations*, FMC No. 06-01 (Apr. 26, 2007) (Notice Not to Review). On motion of BOE, claims against six individuals have been dismissed. *Worldwide Relocations*, FMC No. 06-01 (ALJ Sept. 26, 2007) (Order Dismissing Respondent Elizabeth Hudson); *Worldwide Relocations*, FMC No. 06-01 (Oct. 31, 2007) (Notice Not to Review); *Worldwide Relocations*, FMC No. 06-01 (ALJ June 20, 2007) (Order Dismissing Respondents Oren Fachler, Ronald Eaden, Robert Bachs, Barbara Deane (a.k.a. Barbara Fajardo), and Steve Kuller); *Worldwide Relocations*, FMC No. 06-01 (July 24, 2007) (Notice Not to Review).

The Commission commenced four additional proceedings to investigate the activities of a number of other entities that appeared to have operated as or utilized OTIs without a license, bond, and/or tariff as required by the Shipping Act. *EuroUSA Shipping, Inc., Tober Group, Inc., and Container Innovations, Inc.*, FMC No. 06-06 (May 11, 2006) (Order of Investigation and Hearing); *Parks Int'l Shipping, Inc.*, FMC No. 06-09 (Sept. 19, 2006) (Order of Investigation and Hearing); *Anderson Int'l Transp. and Owen Anderson*, FMC No. 07-02 (Mar. 22, 2007) (Order of Investigation and Hearing); *Embarque Puerto Plata, Corp.*, FMC No. 07-07 (July 31, 2007) (Order of Investigation and Hearing). This decision has the benefit of the decisions in these other cases.

C. Evidence

This proceeding was conducted by briefing. On June 19, 2009, BOE submitted its brief, proposed findings of fact, and conclusions of law⁷ with an appendix of thirty-eight exhibits.⁸ On September 30, 2009, respondents Patrick Costadoni, Megan Karpick, and Martin McKenzie each filed briefs with responses to BOE's proposed findings, and their own proposed findings of fact and conclusions of law⁹ with exhibits.¹⁰ On December 11, 2009, BOE submitted its reply brief and another eight exhibits in its supplemental appendix.¹¹ On March 10, 2010, BOE was instructed to

⁷ Cited as "BPFF."

⁸ Cited as "App." with the Bates page number.

⁹ Cited as "CPFF," "KPFF," and "MPFF."

¹⁰ Cited as "CEX." "KEX." and "MEX."

¹¹ Cited as "BReply" and "Supp. App."

file revised shipment charts, identifying the exhibit pages supporting the alleged shipments and identifying consumer complaints. *Worldwide Relocations*, FMC No. 06-01 (ALJ Mar. 10, 2010) (Order Requiring Supplemental Briefing). On April 9, 2010, BOE filed the supplemental shipment charts.¹² Respondents did not file an objection to the supplemental shipment charts. All of the exhibits are hereby admitted.

Under the Administrative Procedures Act (“APA”), an Administrative Law Judge may not issue an order “except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.” 5 U.S.C. § 556(d); *Steadman v. SEC*, 450 U.S. 91, 102 (1981). This Initial Decision is based on the pleadings, exhibits, briefs, proposed findings of fact and conclusions of law, and replies thereto filed by the parties. Citations to specific numbered findings of fact in this Initial Decision are designated by “F.”

This Initial Decision addresses only material issues of fact and law.¹³ Proposed findings of fact not included in this Initial Decision were rejected, either because they were not supported by the evidence or because they were not dispositive or material to the determination of the allegations of the complaint or the defenses thereto. Administrative adjudicators are “not required to make subordinate findings on every collateral contention advanced, but only upon those issues of fact, law, or discretion which are ‘material.’” *Minneapolis & St. Louis R.R. Co. v. United States*, 361 U.S. 173, 193-194 (1959); *In re Amrep Corp.*, 102 F.T.C. 1362, 1670 (1983).

Part two provides specific findings of fact which discuss the background and each individual corporate respondent, in turn. Part three provides analysis and conclusions of law and includes a discussion of preliminary issues, pending motions, arguments of the parties, statutory framework, legal analysis, weighing the evidence, respondents, and remedy. Part four provides the Order.

II. FINDINGS OF FACT

A. Background

1. Investigation

1. In late 2003, the Commission began receiving complaints from shippers regarding moving companies hired to transport personal effects from various locations in the United States to foreign destinations. These companies were primarily located in the South Florida area and the South Florida field office, including Commission area representative Andrew Margolis, began investigating their activities. (App. 2 at 10-11).

¹² Cited with the original appendix number followed by an “A.”

¹³ To the extent individual findings of fact may be deemed conclusions of law, they shall also be considered conclusions of law. Similarly, to the extent individual conclusions of law may be deemed findings of fact, they shall also be considered findings of fact.

2. Among the companies under investigation between 2004 and 2006 were the corporate respondents International Shipping Solutions, Dolphin, Worldwide Relocations, Boston Logistics, Tradewind, Moving Services, and Global Direct Shipping. None of these respondents ever maintained a bond or surety or provided proof of financial responsibility, none obtained a license from the Commission, and none published a tariff as required by sections 8 and 19 of the Shipping Act. (App. 2 at 11; App. 4 at 161; App. 23 at 1964; App. 23 at 1966-67; App. 12 at 1138-39).

2. Globe Movers

3. Prior to opening their own companies, respondents Megan Karpick, Baruch Karpick, and Patrick Costadoni worked together at Globe Movers, an international moving company which is not a party to this action. (App. 5 at 175-76; Supp. App. 3 at 3273; App. 34 at 2865).

4. While it is not entirely clear why Globe Movers closed, the evidence does show that there was one NVOCC that would not work with Globe Movers because it was unlicensed; that an NVOCC called all payments due causing a cash shortage; and that Globe Movers was listed on movingscam.com. (App. 5 at 177; App. 32 at 2835; App. 33 at 2848).

5. There is evidence that Globe Movers evolved into International Shipping Solutions and that personnel moved from one to the other. (App. 5 at 184).

B. Respondents

1. International Shipping Solutions, Baruch Karpick, and Megan Karpick

6. International Shipping Solutions was established as a Florida for profit corporation on September 8, 2003. International Shipping Solutions's sole director and registered agent was Baruch Karpick. (App. 30 at 2800-09; App. 34 at 2865).

7. Megan Karpick was vice-president of operations of International Shipping Solutions and ran the corporation, including sales management, dispatching, and control of finances. (App. 32 at 2831).

8. At the time International Shipping Solutions was in operation, Megan Karpick was the wife of Baruch Karpick. (App. 32 at 2829-30; App. 33 at 2840; App. 34 at 2865). Megan Karpick used several names, including Megan Kaiser, Megan Kaiser, and Kathryn Kaiser. (App. 32 at 2829-30).

9. Prior to opening International Shipping Solutions, Baruch Karpick and Megan Karpick owned Globe Movers. (App. 5 at 175-76).

10. On October 23, 2003, Commission area representative Andrew Margolis visited the office of what he thought was Globe Movers, but Megan Karpick described as International Shipping

Solutions, regarding a consumer complaint. (Supp. App. 1 at 3264; Supp. App. 2 at 3267; Supp. App. 3 at 3271-72, KExA at 2).

11. Andrew Margolis states that when he attempted to discuss the need for a Commission license with Megan Karpick, she referred him to an attorney who never returned his telephone calls. (Supp. App. 1 at 3264).

12. International Shipping Solutions, Dolphin, Megan Karpick, and Martin McKenzie contend that the Commission is equitably estopped from enforcing the Shipping Act because the Commission was fully aware of the identical International Shipping Solutions and Dolphin business models and never objected to their use. (KExA at 3).

13. Megan Karpick specifically alleges that she showed Andrew Margolis the consultancy business model which she intended to use for International Shipping Solutions. (KExA at 2).

14. Megan Karpick indicates that she was never advised by the Commission staff that International Shipping Solutions or Dolphin were in violation of the Shipping Act. (KExA at 3).

15. Commission staff member Joseph Farrell communicated with Megan Karpick to resolve consumer complaints. (Supp. App. 1 at 3263-64; Supp. App. 2 at 3266-67).

16. Statements submitted by Commission staff Joseph Farrell and Andrew Margolis contend that their contact with Megan Karpick, Dolphin, and International Shipping Solutions was to resolve consumer complaints and not to evaluate their operations. (Supp. App. 1 at 3263-64; Supp. App. 2 at 3266-67; BReply at 6).

17. Megan Karpick states that she had numerous communications with Commission staff regarding shipment status, the formation of International Shipping Solutions and Dolphin, the on-going resolution of open issues, the websites of Dolphin and International Shipping Solutions, the efforts to bring in outside investors and professional management for Dolphin, and internal management issues. (KExA at 2).

18. On May 5, 2004, Megan Karpick advised Joseph Farrell via e-mail of the current status of "internal management issues . . . which have led to complaints being lodged with the FMC;" efforts to "ensure that projects (bookings) will not overrun in time, nor budget, deliverables will be processed as expected, and all stake holders satisfaction achieved;" and work "so that customer service is no longer an issue." She concluded by stating "I appreciate your on-going support in facilitating resolution of our complaints." (KExB at 1-2; KExA at 2).

19. Following Joseph Farrell's retirement from the FMC, during the months of June through August, 2004, Megan Karpick continued both telephonic and electronic communication with members of the FMC staff. (KExA at 2).

20. Megan Karpick states that she was never personally asked for any OTI or NVOCC number from any NVOCC accepting shipments from International Shipping Solutions and Dolphin and was never refused a booking. (KExA at 3).

21. International Shipping Solutions maintained an Internet website that advertised the company as providing international relocations services. (App. 32 at 2834).

22. Shipping documents indicate that the shipments made by International Shipping Solutions were primarily personal effects, household goods, and vehicles being transported from the United States to a foreign country. (App. 36, e.g. 2878, 2885, 2903, 2907, 2929).

23. International Shipping Solutions booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to International Shipping Solutions primarily identifying the shipper/exporter as International Shipping Solutions as agent for the proprietary shipper, although bills of lading were also issued identifying International Shipping Solutions c/o the proprietary shipper, and listing the proprietary shipper c/o International Shipping Solutions, but with International Shipping Solutions's address. (App. 36 at 2872, 2877, 2885, 2895, 2954).

24. For two of the International Shipping Solutions shipments, the booking confirmations are addressed to Globe Movers while the invoices and bills of lading are addressed to International Shipping Solutions. (App. 36 at 2872-74, 2954, 2919, 2909).

25. International Shipping Solutions collected payments directly from shippers and then paid licensed NVOCCs for the shipment. (App. 32 at 2835).

26. International Shipping Solutions handled the following forty shipments between January, 2004, and November, 2004:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Albert, Manuel	January, 2004	US/France	SSL	SLI107751	2872-2876
2	Anouk, Dev	September, 2004	US/Australia	DCL	MIA/MEB/D02363	2877
3	Ansermet, Patrick	April, 2004	US/Switzerland	CaroTrans	LAXANT0414004	2878-2879
4	Bastian, Anita	May, 2004	US/Malaysia	CaroTrans	JERPKL0421004	2880-2881
5	Bossart, Amy	June, 2004	US/Ireland	DCL	MIA/DBL/D02350	2882
6	Bowe, Marta	April, 2004	US/Australia	DCL	MIA/SYD/D02476	2883
7	Bret, Jean-Philipper	September, 2004	US/France	DCL	MIA/MAR/D00149	2884
8	Burgdorff, Katherine	January, 2004	US/Australia	Shipco	FRE1324732	2885-2887
9	Carvatol, Lucia	March, 2004	US/Columbia	CaroTrans	MIABUE0414006	2888-2889
10	Castle, Christopher	February, 2004	US/Belgium	SSL	SLI107932	2890-2893
11	Cox, Annie	March, 2004	US/Australia	Shipco	SYD1326463	2894-2897
12	Devriese, Stef	June, 2004	US/France	DCL	MIA/ANT/D02973	2898
13	Fagnani, Anne	June, 2004	US/France	DCL	MIA/PAR/D02284	2899
14	Foley, Meraiah	January, 2004	US/Australia	Shipco	SYD1322956	2900-2902
15	Gibbs, Nicole	February, 2004	US/Italy	SSL	SLI107906	2903-2906

16	Haychel, Allen	April, 2004	US/Venezuela	SSL	SLI108247	2907-2911
17	Helfert, Adrian	October, 2004	US/Scotland	DCL	MIA/GLA/D02153	2912
18	Holmes, Beverly	April, 2004	US/South Africa	CaroTrans	LAXJOH0417001	2913-2914
19	Ishii, Katrin	November, 2004	US/Japan	DCL	MIA/YOK/D02427	2915
20	Karpotov, Arkadiy	July, 2004	US/Japan	DCL	MIA/TOK/D02765	2916
21	Kruizenga, Luebbert	January, 2004	US/France	SSL	SLI107668	2917-2920
22	Kumar, Ashish	July, 2004	US/UK	DCL	MIA/LON/D03420	2921
23	Lahr, Candance	July, 2004	US/Australia	DCL	MIA/FRE/D02166	2922
24	Mahboob, Mohamad	March, 2004	US/Pakistan	DCL	MIA/KHI/D02190	2923
25	Malhorta, Sanjay	September, 2004	US/UK	DCL	MIA/LON/D03396	2924
26	Martens, Theresa	March, 2004	US/UK	Shipco	LDN1326462	2925-2927
27	McCain, Phyllis	June, 2004	US/UK	DCL	MIA/LON/D03382	2928
28	Nader, Nabil	May, 2004	US/Bahrain	SSL	SLI107808	2929-2932
29	Needham, Malcolm	April, 2004	US/UK	DCL	MIA/LON/D03293	2933
30	Pajwani, Premal	June, 2004	US/UK	DCL	MIA/LON/D03395	2934
31	Paragios, Anghelalina	January, 2004	US/France	SSL	SLI107807	2935-2938
32	Richter, Denise	September, 2004	US/Germany	DCL	MIA/HMB/D02868	2939
33	Scott, Stan	July, 2004	US/France	DCL	MIA/MAR/D00143	2949
34	Shaker, Abdullah	January, 2004	US/Saudi Arabia	Shipco	JED1322284	2950-2952
35	Teillet, Anthony	March, 2004	US/Spain	SSL	SLI108140	2954-2956
36	Torabi, Sohrab	July, 2004	US/Scotland	DCL	MIA/ANT/D02987	2957
37	Tuttle, Candace	January, 2004	US/New Zealand	Shipco	CHC0104T3601	2958-2960
38	Van Zyl, David	February, 2004	US/South Africa	SSL	SLI107901	2961-2963
39	Wagner, Katja	June, 2004	US/Germany	DCL	MIA/HMB/D02837	2964
40	Williams, Ann	October, 2004	US/Belgium	DCL	MIA/ANT/D02994	2965

(App. 35A; App. 36) (“Shipment chart”).

27. CADRS received six complaints by shippers against International Shipping Solutions. (App. 1 at 2).

28. International Shipping Solutions ceased doing business because it was identified on movingscam.com as being a successor company to Globe Movers. (App. 32 at 2835).

2. Dolphin International Shipping, Megan Karpick, and Martin McKenzie

29. Dolphin International Shipping was established as a Florida for profit corporation on February 4, 2004. Megan Karpick used the title of president and was listed as the sole director of Dolphin. (App. 31 at 2810-15; App. 32 at 2835-36). She served as the manager of Dolphin. (Supp. App. at 3292).

30. Dolphin and International Shipping Solutions used the same location and shared some of the same employees. (App. 32 at 2836; Supp. App. 5 at 3293). Megan Karpick said that Dolphin was established as “another vehicle to sell from.” (App. 32 at 2836).

31. Megan Karpick did everything at Dolphin, including logistics, sales support, customer relations, and service provider relations. (App. 33 at 2851-52).

32. Baruch Karpick had a fifty percent ownership interest in Dolphin, which he sold back to Dolphin in May of 2004. (App. 32 at 2832).
33. Martin McKenzie invested in Dolphin. His initial investment was \$25,000, followed by investments of \$21,000 and \$15,000, all from his 401(k). (App. 33 at 2844-45).
34. Martin McKenzie was learning the business and planned to open an office in Chicago. (App. 33 at 2844-45, 2861-62; App. 32 at 2833; Supp. App. 4 at 3282). He did not have a title. (App. 32 at 2833; App. 33 at 2845-46). He only received salary for May and June. (Supp. App. 4 at 3291). He lived in Chicago and commuted to Florida when his children's custody schedule permitted. (App. 33 at 2843; Supp. App. 4 at 3282).
35. Both Megan Karpick and Martin McKenzie assumed personal obligations on behalf of Dolphin. (App. 31 at 2816-27).
36. Martin McKenzie described Dolphin as a "consulting firm in the arena of international relocation" and "as the project manager, to put together these various components." (App. 33 at 2841, 2854).
37. Martin McKenzie stated that he read portions of the Shipping Act in the summer of 2004. (App. 33 at 2844).
38. Shares were never issued for the Dolphin corporation. (App. 32 at 2833; App. 33 at 2846; Supp. App. 5 at 3292).
39. Dolphin maintained an Internet website that advertised the company as providing international relocation services. (App. 32 at 2834). Megan Karpick wrote the content for the website. (App. 32 at 2836).
40. Dolphin sent emails to customers offering "custom made door to door service" and full destination services including "customs clearance at destination, in-house delivery to residence, unpacking, setting up of furniture and removal of debris at time of delivery." (App. 38 at 3208, 3210-11).
41. Shipping documents indicate that the shipments were primarily personal effects and household goods being shipped from the United States to a foreign country. (App. 38, e.g. 3204, 3242; *see also* App. 33 at 2856).
42. Dolphin prepared shipping instructions for the shipments. (Supp. App. 4 at 3285). Most shippers paid Dolphin directly, usually by wire transfers, checks, or on-line payment systems. (Supp. App. 4 at 3286).

43. Dolphin booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to Dolphin primarily identifying the shipper/exporter as Dolphin, but also identifying the proprietary shipper c/o Dolphin and identifying Dolphin as agent for the proprietary shipper, generally with Dolphin's address. (App. 38, e.g. 3201, 3204, 3212).

44. Dolphin handled the following ten shipments between May, 2004, and November, 2004:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Chow, Jayen	November, 2004	US/Malaysia	Troy	1075987	3201-3203
2	Cil, Saba	November, 2004	US/Turkey	Troy	1075829	3204-3207
3	Galvez, Maria Jose	November, 2004	US/Spain	American	NYC181041	3208-3230
4	Gugger, Heinz	October, 2004	US/Australia	American	unknown	3231-3241
5	Kennedy, Terrence	November, 2004	US/UK	Troy	1076136	3242-3246
6	Merugu, Vijay	November, 2004	US/India	Troy	1075400	3247-3250
7	Perryman, Jennifer	May, 2004	US/UK	SSL	SLI108477	3251-3253
8	Ruiz, Josean	October, 2004	US/Spain	DCL	MIA/BAR/D02437	3254
9	Vasiloupouliso, Nick	June, 2004	US/Greece	CaroTrans	LAXPIR0423002	3255-3257
10	Warren, Iam	November, 2004	US/UK	Troy	1076633	3258-3262

(App. 37A; App. 38) ("Shipment chart").

45. The majority of the shipments were made after the summer of 2004, when Martin McKenzie said he read parts of the Shipping Act. (App. 33 at 2844).

46. CADRS received forty complaints by shippers against Dolphin. (App. 1 at 2).

47. When Martin McKenzie became involved with Dolphin in April of 2004, there were shipments that had been only partially delivered, shipments that were still in warehouses, and bookings that had not been made. (Supp. App. 4 at 3287).

48. There is an extended email exchange between a Dolphin shipping customer and Megan Karpick, using the name Kathryn Kaiser, with the final email from the shipper indicating that:

It has been over 10 weeks since the household [] goods were picked up and I have no information from you or anyone in your company. I am having trouble sleeping worrying about it, I cannot concentrate at work, and I don't know what to think. Please, please do tell me what is going on. If there has been a problem at least let me know what it is.

(App. 38 at 3220-27).

49. While Dolphin was winding down, Megan Karpick served as a consultant to Worldwide Relocations. (App. 33 at 2858; App. 10 at 24889 (November 2004 emails from Megan Karpick

under the name Catherine Kaiser regarding a consumer complaint to Worldwide Relocations)). Martin McKenzie did some work for Worldwide Relocations as well. (App. 33 at 2858-59).

3. Worldwide Relocations and Patrick Costadoni

50. Worldwide Relocations was established as a Florida for profit corporation on February 3, 2003. (App. 3 at 153-57). No shares of company stock were issued. (App. 5 at 181).

51. Prior to forming Worldwide Relocations, Patrick Costadoni worked at Globe Movers, owned by Megan Karpick and Baruch Karpick. Within three months of being hired by Globe Movers, he was promoted to general manager. (App. 5 at 175-76; Supp. App. 3 at 3273).

52. According to Patrick Costadoni, toward the end of his tenure at Globe Movers, there was an NVOCC that would not work with them because they were unlicensed. (App. 5 at 177).

53. Prior to leaving Globe Movers, Patrick Costadoni started Worldwide Relocations by hiring an attorney to draw up corporate documents which were filed with the state of Florida and by opening a bank account in the corporation's name. (App. 5 at 178; App. 3 at 151-57).

54. The original director and president of Worldwide Relocations was Patrick Costadoni's mother, Lucy Norry, although she was named as president to conceal the true ownership of the corporation, as Patrick Costadoni was still working for Globe Movers. (App. 5 at 178-79; App. 4 at 160-61).

55. Lucy Norry did not initially work at Worldwide Relocations, but rather was employed at another transportation company. (App. 5 at 179-80). Once she joined Worldwide Relocations, she provided all of the information used to generate bills of lading by the secondary NVOCCs. (App. 5 at 188-89).

56. Patrick Costadoni officially became the president of Worldwide Relocations on July 2, 2004, and Lucy Norry became its official treasurer. (App. 5 at 180; App. 3 at 158).

57. The company initially worked out of Patrick Costadoni's home to keep expenses low. He started with just himself, clerical support, and one other employee. (App. 5 at 181-82). He did sales and obtained tariff rate sheets to prepare quotes. (App. 5 at 183). When he moved, the company moved to his new home address. (App. 5 at 186-87). At one point, Worldwide Relocations had up to thirteen employees. (App. 5 at 207).

58. Patrick Costadoni controlled Worldwide Relocations's bank account by performing all of the bookkeeping and taking care of all of the company finances prior to retaining a non-full-service bookkeeper and accounting firm in the summer of 2004. (App. 5 at 196; App. 6 at 229). Corporate charge cards were issued in the name of the corporation and in Patrick Costadoni's name. (App. 5 at 205).

59. Patrick Costadoni characterized his income as corporate distributions and later as salary, although since no shares of Worldwide Relocations stock were issued, it is questionable whether he was entitled to corporate distributions. (App. 5 at 181, 205).

60. After complaints started coming in, around August or September of 2004, Patrick Costadoni investigated applying for an NVOCC or ocean freight forwarder license with his father as the qualified individual. However, they never progressed beyond the initial review process. (App. 5 at 197-99).

61. Worldwide Relocations maintained an Internet website advertising international shipping services and solicited business through this website and other Internet portal sites. (App. 8 at 283-93). Patrick Costadoni designed, maintained, and provided all content for Worldwide Relocations's website. (App. 5 at 192-93). Worldwide Relocations also paid third parties for sales leads. (App. 5 at 194).

62. A review of Worldwide Relocations's website in November of 2004 showed that Worldwide Relocations advertised itself as "an international moving company" offering port to port, port to door, door to port, and door to door services. (App. 8 at 285-89).

63. Worldwide Relocations's Internet advertising states that "[b]y working in tandem with our domestic moving agents as well as our international agents we are able to govern your services from origin to destination." (App. 8 at 285).

64. The Internet advertising explains that "an international moving company is responsible for packing/loading/receiving your shipment, receiving your payment, and promptly booking the services of all companies necessary to fulfill their obligation." (App. 8 at 289).

65. Worldwide Relocations offered services in its own name. (App. 8 at 283-93). The proprietary shippers hired Worldwide Relocations to transport their goods from point A to point B. (App. 5 at 224).

66. Worldwide Relocations paid port to port or multimodal transportation charges, entered into affreightment agreements with underlying shippers, arranged for inland transportation, and paid for inland freight charges on through transportation movements. (App. 4 at 161).

67. Shipping documents indicate that the shipments made by Worldwide Relocations were primarily personal effects, household goods, and vehicles being transported from the United States to a foreign country. (App. 10, e.g. 319, 344, 517, 594, 791).

68. Copies of documents in Worldwide Relocations's files show that Worldwide Relocations agreed to provide transportation to a foreign country and issued invoices charging customers a

different amount (generally more) than Worldwide Relocations was charged by the secondary NVOCC. (App. 10, e.g. 417-28, 468-78, 611-30, 839-46).

69. Worldwide Relocations's shipment files also show that Worldwide Relocations arranged for inland transportation when necessary to complete the shipment and provided marine insurance and other services for its customers. (App. 10, e.g. 887, 924, 969-82).

70. Worldwide Relocations booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to Worldwide Relocations identifying the shipper/exporter as Worldwide Relocations, identifying the proprietary shipper c/o Worldwide Relocations, or identifying the proprietary shipper with Worldwide Relocations's address. (App. 5 at 189-92; App. 10, e.g. at 382-84, 429-31, 537-44, 594-96, 826-28).

71. Worldwide Relocations's customers did not have direct contact with the secondary NVOCCs. (App. 5 at 207). Patrick Costadoni agreed that the shipper looked to Worldwide Relocations for provision of services. (App. 5 at 207-09).

72. Patrick Costadoni agreed with the description of Worldwide Relocations as the carrier in relation to its customers and the shipper in relation to the secondary NVOCCs. (App. 5 at 208-09).

73. Patrick Costadoni stated that Worldwide Relocations's customers would receive a copy of the bill of lading once the invoice had been paid. (App. 5 at 191-92).

74. As an example, one customer stated that he was charged an additional \$2,740 after his belongings were picked up and was "told 'you aren't getting a bill of lading until you pay the balance due on this invoice'" and that Worldwide Relocations refused to tell him where his belongings were located. (App. 10 at 423).

75. If Worldwide Relocations failed to pay the secondary NVOCC for the ocean freight, the secondary NVOCC often would refuse to initially deal or provide information to Worldwide Relocations's customer without a release from Worldwide Relocations. (App. 10, e.g. 364, 629-30, 976-77, 24888-92, 24948).

76. Worldwide Relocations handled the following two hundred seventy-eight shipments between February, 2003, and July, 2005:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Abaleta, Adriana	July, 2004	US/Switzerland	EuroUSA	L-8152	302-303
2	Abel, David	December, 2003	US/Australia	CFR	RINSYD040051	304
3	Adelardi, Pablo	March, 2004	US/Argentina	Troy	1066252	305-309
4	Adelardi, Patricia	May, 2004	US/Argentina	DCL	MIA/BAA/D04055	310
5	Ahmad, Babar	January, 2005	US/Saudi Arabia	CaroTrans	HOUDAM0501002	312, 314-318
6	Ahmad, Babar	January, 2005	US/UK	CaroTrans	HOULON0501003	311, 314-318

7	Ailova, Katerina	May, 2004	US/Czech	Troy	1068479	319-322
8	Almutawa, Adel	January, 2005	US/Qatar	Hual A/S	94568	323-329
9	Amerasinghe, Bernadette	June, 2004	US/Singapore	Troy	1070200	330-334
10	Ang, Wei Tech	September, 2004	US/Singapore	Troy	1073446	335-337
11	Apelqvist, Per	February, 2005	US/UK	CaroTrans	SFOLON0504002	338
12	Ariens, Marialice	October, 2004	US/Australia	Troy	1074272	340-343
13	Arocha, Lldefonso	January, 2005	US/Switzerland	EuroUSA	L-8770	344
14	Ashton, Fiona	May, 2004	US/Ireland	SSL	SLI108484	345-349
15	Atmadiredja, Lisa	October, 2004	US/Indonesia	Troy	1074809	350-352
16	Avital, Karolina	September, 2004	US/Czech	Troy	1073156	353-356
17	Bajaj, Ujjal	March, 2005	US/Singapore	SSL	SSLORF58407	357-381
18	Bakhesh, Maisa	May, 2004	US/Kuwait	Troy	1069372	382-384
19	Bane, Deidre	September, 2004	US/Ireland	Tober	41041123	385-389
20	Barcelo, Ignacio	October, 2004	US/Spain	DCL	MIA/VLN/D00113	390
21	Bartland, Stephanie	March, 2004	US/Germany	Troy	1065589	391-394
22	Bartow, Judith	May, 2004	US/UK	CFR	LATEW040848E	395
23	Benamour, Kenza	January, 2005	US/Morocco	CaroTrans	BOSCAS0504001	400-401
24	Benedeti, Edgar	August, 2004	US/France	Troy	1073077	396-399
25	Benedikter, Renata	April, 2004	US/Italy	Troy	1067570	402-406
26	Berthelie, Arnaud	July, 2004	US/France	Troy	1071105	407-409
27	Besset, Olivier	December, 2004	US/France	EuroUSA	L-8710	410-411
28	Birkett, Angela	July, 2004	US/UK	EuroUSA	L-8070	412-413
29	Bitton, Benjamin	February, 2005	US/Netherlands	Tober	41050105	414-415
30	Botkin, Glenn	July, 2004	US/Belgium	Troy	1071614	417-428
31	Brachet, Valerie	May, 2004	US/France	Troy	1069415	429-432
32	Brazier, Janet	November, 2004	US/UK	EuroUSA	L-8608	433-434
33	Byrne, Ken	March, 2005	US/Ireland	Tober	42050060	435-438
34	Cadi, Jacques	September, 2004	US/France	CFR	MIAES041608A	442
35	Cai, Patrick	August, 2003	US/China	Troy	1058208	443-446
36	Cano, Carlos	October, 2004	US/Spain	Troy	1074199	447-450
37	Caro, Glen	May, 2004	US/Australia	EuroUSA	L-7866	451-452
38	Chang, Skye	July, 2003	US/Taiwan	DCL	MIA/KEE/D02423	453-457
39	Chang, Tony	December, 2004	US/Korea	CaroTrans	SFOBUS0450001	458-459
40	Chawla, Neetu	February, 2005	US/UK	Tober	42050009	460-464
41	Checchia, Claudio	June, 2004	US/Singapore	Troy	1069613	465-467
42	Cheeseright, Brooke	January, 2005	US/New Zealand	CaroTrans	MIAAUC0504001	468-478
43	Chemin, Charles	November, 2003	US/China	DCL	MIA/XIG/D02157	479-483
44	Chen, Ying	October, 2004	US/China	Troy	1074217	484-487
45	Chidi, Gerald	November, 2004	US/Nigeria	SSL	SLI109413	488-493
46	Chisholm, Linda	January, 2005	US/UK	CaroTrans	ATLLON0504001	494-496
47	Chitan, Ngoni	September, 2003	US/South Africa	DCL	MIA/CPT/D02170	497-501
48	Chittor, Siva	June, 2003	US/India	Troy	1056017	502-506
49	Chung, Su-Jen Pamela	July, 2004	US/Taiwan	Troy	1071196	507-509
50	Ciepiela, Catherine	September, 2004	US/France	EuroUSA	L-8328	510
51	Clarke, Mo	July, 2004	US/Australia	Troy	1070986	511-514
52	Cleary, Chris	July, 2005	US/UK	EuroUSA	L-9442	515-516
53	Concova, Viera	September, 2004	US/Czech	Troy	1073879	517-522
54	Cook, Denise	November, 2003	US/Australia	Troy	1061854	523-529
55	Cooper, Jennifer	April, 2005	US/UK	CaroTrans	CSCLON0516001	530-531
56	Cornelisen, Chris	June, 2003	US/New Zealand	CFR	WIMAKL030010	532
57	Cowie, Jennifer	September, 2004	US/Swaziland	Troy	1073881	533-536

58	Cox, Jeanette	October, 2003	US/France	CFR	RINFOS030318	537-544
59	Cunningham, Stephan	November, 2004	US/Sweden	Troy	1075758	545-549
60	Curle, Stephanie	December, 2004	US/UK	EuroUSA	L-8686	550-560
61	Dapogny, Steve	July, 2004	US/UK	EuroUSA	L-8153	561-562
62	De Jesus, Jennifer	May, 2004	US/Australia	Troy	1068496	563-566
63	De Medicis, Thereza	October, 2004	US/Brazil	DCL	MIA/SAN/D04361	567
64	Dechavez, F.G.	July, 2003	US/Dom. Rep.	DCL	MIA/RHA/D03343	568-571
65	Depp, Allan	August, 2004	US/Saudi Arabia	DCL	LAX/RYPH/D02607	572
66	Dobkiewicz, Paulina	September, 2004	US/Ireland	Tober	41041058	573-575
67	Donovan, Andrew	September, 2004	US/Spain	Tober	41041006	576-581
68	Dorth, Julie	September, 2004	US/Norway	Troy	1073746	582-584
69	Dowell, Mark	February, 2004	US/Italy	Troy	1064565	585-589
70	Edwards, Jocely	May, 2005	US/UK	EuroUSA	L-9248	590-591
71	Eisbrich, Ines	June, 2005	US/Italy	Tober	42050071	592-593
72	Eminivic, Admir	July, 2004	US/Bosnia	Troy	1070979	594-596
73	Fairfax, Martin	October, 2004	US/Netherlands	EuroUSA	L-8468	597-598
74	Farah, Salih	April, 2004	US/Israel	Troy	1067625	606-610
75	Fellini, Claudia	March, 2005	US/Italy	SSL	SSLORF58571	611-630
76	Ferrari, Antoinette	September, 2004	US/Australia	Troy	1073613	631-633
77	Fonseca, Leo	October, 2004	US/Brazil	DCL	MIA/RIO/D03190	634
78	Gablinger, Ynon	April, 2005	US/Australia	CaroTrans	JERSYD0506006	635-637
79	Ganung, Donald	April, 2005	US/Czech	CaroTrans	HOUHAM0507003	638-639
80	Gawe, Spencer	September, 2004	US/Zimbabwe	Troy	1073237	640-642
81	Gelpi, Carol	November, 2004	US/UK	Tober	41041172-01	643-646
82	Girard, Tina	April, 2005	US/Australia	CaroTrans	SFOFRM0513001	647-648
83	Giulia, Lori	July, 2004	US/Netherlands	Tober	41040932	649-659
84	Glasham, Roy	January, 2005	US/Germany	EuroUSA	L-8771	660-661
85	Goldenberg, Ben Sam	May, 2004	US/Israel	Troy	1068227	599-601
86	Gooding, Catherine	October, 2004	US/UK	EuroUSA	L-8586	662-663
87	Gordon, Richard	March, 2004	US/Australia	Troy	1065648	664-666
88	Gould, Robert	May, 2005	US/New Zealand	Tober	42050054	439-441, 669-670
89	Grayson, Conrad	May, 2005	US/Australia	EuroUSA	L-9255	667-668
90	Gu, Kevin	October, 2004	US/China	Troy	1074921	602-605
91	Guerra, Patricia	May, 2004	US/Switzerland	CFR	FLECU040884B	671
92	Guvelioglu, Tuba	October, 2004	US/Turkey	DCL	MIA/ITL/D02168	672
93	Haefner, Stephanie	June, 2005	US/UK	EuroUSA	L-9336	673-678
94	Hagger, Nigel	April, 2005	US/UK	CaroTrans	JERLON0505001	679-680
95	Halim, Joanna	July, 2004	US/Singapore	Troy	1070784	681-683
96	Halim, Louisa	April, 2004	US/Indonesia	Troy	1067842	684-686
97	Hansen, Kim	August, 2004	US/Denmark	Troy	1072203	687-689
98	Haque, Anwarul	June, 2004	US/Pakistan	Troy	1069886	690-692
99	Heinz, Drew	December, 2004	US/Germany	EuroUSA	L-8751	693-694
100	Herz, Katrin	June, 2004	US/Portugal	EuroUSA	L-8013	695
101	Hildebrand, Jacqueline	December, 2004	US/Netherlands	CaroTrans	MIARDM0451002	696-697
102	Holmberg, Henrik	March, 2005	US/UK	EuroUSA	L-9044	698-706
103	Hon, Dominic	February, 2004	US/Malaysia	Troy	1064075	707-712
104	Hsu, Hui-Lin	January, 2005	US/Taiwan	CaroTrans	JERKEE0453006	713-714
105	Huib, Ovaa	June, 2004	US/Netherlands	EuroUSA	L-7958	715-716
106	Hutin, Vann	February, 2004	US/France	Shipco	PAR1326746	717-720
107	Idreis, Hany	January, 2005	US/Saudi Arabia	CaroTrans	BOSJED0453001	721-722
108	Ishigami, Tomohiko	May, 2004	US/Japan	DCL	MIA/YOK/D02394	723

109	Jacobs, Cathy	March, 2004	US/Australia	Troy	1065587	724-726
110	Jadhav, Latita	September, 2004	US/India	SSL	SLI109110	727-730
111	Jarecki, Carol	May, 2005	US/Australia	Tober	42050095	731-732
112	Jefcoate, Debbie	October, 2004	US/New Zealand	Troy	1074844	733-735
113	Jeske, Valerie	December, 2004	US/Germany	Tober	41041955	736-758
114	Jiang, Xiaoyan	May, 2005	US/Japan	CaroTrans	MEMTYO0515001	759-760
115	Jiminez-Leal, Orlando	March, 2005	US/Spain	CaroTrans	JERVAL0505001	761-762
116	Jobe, Jason	October, 2004	US/UK	EuroUSA	L-8587	763-764
117	Johansson, Erika	July, 2004	US/Sweden	Troy	1070973	765-768
118	Johnson, David	January, 2004	US/Australia	Troy	1064319	769-771
119	Kao, Eric	December, 2004	US/Taiwan	CaroTrans	JERKEE0451002	772-773
120	Karaindros, Thanos	October, 2004	US/Greece	DCL	MIA/PRS/D02261	774
121	Kaveeta, Persad	December, 2004	US/Trinidad	CaroTrans	CHXPOS0448001	775-777
122	Kelly, Ashley	July, 2004	US/South Africa	Troy	1070617	778-782
123	Kim, Chen	January, 2005	US/Indonesia	CaroTrans	LAXJAK0502001	783-784
124	Ko, Tyrone	September, 2004	US/Australia	Troy	1073627	785-787
125	Komaragiri, Vihari	May, 2004	US/India	Troy	1069047	788-790
126	Konya, Istvan	August, 2004	US/Hungary	Troy	1072052	791-793
127	Kourie, Lee-Ann	June, 2004	US/South Africa	DCL	MIA/JHB/D02192	794
128	Krassing, Andreas	March, 2005	US/Austria	CaroTrans	CHXHAM0506004	795-797
129	Lackerby, Esther	August, 2004	US/Zambia	Troy	1073073	798-800
130	Lahely, Sarah	August, 2003	US/France	CFR	RIRTM030223C	803
131	Lajugie, Juliette	April, 2004	US/France	CFR	RIRTM040183A	804
132	Lam, Jo	January, 2005	US/China	CaroTrans	SFOHKN0504003	801-802
133	Landon, Mark	July, 2004	US/UK	Troy	1070686	805-807
134	Lashley, Arthur	October, 2004	US/Trinidad	DCL	MIA/POS/D03016	808
135	Lee, Carl	July, 2004	US/Japan	ASA	52620-01	809-814
136	Lee, Jimmy	August, 2004	US/Australia	EuroUSA	L-8145	815-816
137	Leonard, Stephen	May, 2004	US/France	DCL	MIA/MAR/D00121	817-823
138	Less, Steven	April, 2005	US/UK	CaroTrans	JERFLX0514002	824-825
139	Li, Jacqueline	February, 2004	US/Hong Kong	Shipco	HKG1328069	829-836
140	Li, Jane	March, 2005	US/Singapore	CaroTrans	LAXSIN0508004	837-838
141	Li, John	August, 2004	US/Singapore	Troy	1072319	826-828
142	Lim, Lawrence	April, 2004	US/Singapore	DCL	MIA/SIN/D02847	839-846
143	Loannon, Ioannis	February, 2004	US/Greece	DCL	MIA/PRS/D02227	847
144	Loke, Daphne	February, 2004	US/Singapore	Shipco	SIN1325625	848-859
145	Long, Hua	September, 2004	US/China	DCL	MIA/XIG/D02167	860-873
146	Lopez, Mario	March, 2004	US/Venezuela	Shipco	PCA0404T1401	874-877
147	Lu, Jianzhao	April, 2004	US/China	Troy	1067916	878-882
148	Lyons, Risa	January, 2005	US/UK	CaroTrans	ATLFLX0503001	890-897
149	Manson, Rachael	February, 2004	US/New Zealand	Troy	1065082	898-901
150	Marhalim, Mohammed	April, 2005	US/Malaysia	CaroTrans	LAXKEE0515001	902-904
151	Markovic, Jelena	December, 2003	US/Germany	DCL	MIA/HMB/D02694	905-911
152	Markussen, Trond	October, 2004	US/Norway	DCL	MIA/OSL/D02335	912
153	Marumoloa, Bothale	August, 2004	US/Botswana	Troy	1072697	913-915
154	McGarvey, Joe	October, 2004	US/Germany	Tober	42040339	916-920
155	McKinney, Frank	January, 2004	US/UK	CFR	RIFEL030473B	921
156	McLean, Christine	May, 2004	US/France	Tober	42040222	922-934
157	McNab, Sharee	December, 2004	US/New Zealand	CaroTrans	JERCHU0447002	935-937
158	Melgaard, Elisabeth	October, 2004	US/Germany	Troy	1074355	938-954
159	Mendoza, Kate	October, 2004	US/Honduras	DCL	MIA/TGG/D02377	955-966
160	Meyers, Michael	December, 2004	US/Austria	EuroUSA	L-8687	967-968

161	Mikko, Mikkola	August, 2004	US/Finland	Wallenius	US222862	969-982
162	Miller, Kenneth	October, 2004	US/Philippines	Troy	1074267	983-985
163	Miller, Nicole	May, 2005	US/France	CaroTrans	SFOLHV0513001	986-987
164	Miller, Quintin	August, 2003	US/Netherlands	CFR	RIRTM030223A	988
165	Mingels, Robby	May, 2004	US/Netherlands	CFR	LABAR040807C	989
166	Mittaz, Jonathan	September, 2004	US/UK	Troy	1073245	990-992
167	Mjlejnec, Pavel	June, 2004	US/Czech	ASA	52044-01	993-1002
168	Moffa, Louise	September, 2004	US/UK	CFR	RIFEL040350B	1003
169	Monasch, Roaland	September, 2004	US/Zimbabwe	Troy	1074035	1004-1006
170	Moneer, Zahaid	December, 2004	US/UK	EuroUSA	L-8721	1007-1008
171	Mould, Jergen	May, 2005	US/Australia	CaroTrans	CHXADE0502001	1009-1012
172	Munar, Antoni	October, 2004	US/Spain	Troy	1074686	1013-1025
173	Murray, Andrew	April, 2005	US/South Africa	CaroTrans	CSCJOH0515003	1026-1027
174	Naftech, Inc.	December, 2004	US/Chile	CaroTrans	LAXSNA0448001	1028-1029
175	Nakra, Manoj	July, 2004	US/UAE	Air7Seas	DXBV-28843	1030-1043
176	Neehall, David	November, 2004	US/Trinidad	Air7Seas	LAX/POS/B02561	1044-1048
177	Neely, Brian	October, 2004	US/Australia	DCL	MIA/FRE/D02172	1049
178	Nemer, Rama	May, 2004	US/UAE	Troy	1069371	1050-1060
179	Notter, Carine	October, 2004	US/France	EuroUSA	L-8554	1061-1062
180	Nourouzi, Samira	June, 2004	US/Germany	Troy	1069862	1063-1065
181	Oberschmidt, Carol	December, 2004	US/Germany	EuroUSA	L-8704	1066-1068
182	Oh, Steven	January, 2005	US/Korea	CaroTrans	LAXBUS0453003	1069-1070
183	O'Loughlin, Brian	February, 2003	US/Sweden	Troy	1065112	1071-1081
184	Ong, Jason	October, 2004	US/Malaysia	Troy	1074774	1082-1084
185	Onis, Metin	March, 2004	US/Turkey	Shipco	IST1335402	1085-1094
186	Othman, Pandai	September, 2004	US/Malaysia	DCL	MIA/PTK/D02302	1095-99, 24801-802
187	Ouweneel, Meine	June, 2004	US/Netherlands	Troy	1069864	24803-24805
188	Palmer, Tania	August, 2004	US/Australia	CFR	LABNE041468B	24806
189	Palomaki, Kurt	February, 2004	US/UK	Troy	1065160	24807-24813
190	Parmar, Nimesh	July, 2004	US/India	Air7Seas	BOMV-28927	24814-24820
191	Parnell, John	March, 2004	US/UK	Troy	1065633	24821-24830
192	Parra, Sandra	May, 2004	US/Spain	DCL	MIA/BAR/D02414	24831-24841
193	Patel, Sanjai	June, 2004	US/UK	EuroUSA	L-7934	24842-24843
194	Patrick, Thomas	May, 2005	US/Belgium	CaroTrans	SFOANT0511002	24844-24845
195	Paulino, Raymond	July, 2004	US/Germany	CFR	NYCBVRV19870	24846-24851
196	Pelos, Sophia	August, 2004	US/Greece	ASA	52887-01	24852-24863
197	Persieck, Mike	December, 2004	US/Germany	EuroUSA	L-8665	24864-24865
198	Peschka, Mark	August, 2004	US/Egypt	Troy	1073094	24866-24868
199	Peters, Margie	September, 2004	US/Luxembourg	EuroUSA	L-8371	24869-24870
200	Petri, Barbara	August, 2004	US/Netherlands	Troy	1072102	24871-24880
201	Pham, Tuan	December, 2004	US/Germany	EuroUSA	L-8678	24881-24892
202	Piserchia, Rocco	March, 2004	US/Uruguay	DCL	MIA/MVD/D02932	24893-24900
203	Pochat, Jorge	March, 2004	US/Argentina	Shipco	BUE0304T1601	24901-24910
204	Possek, Veronica	May, 2004	US/Sweden	Troy	1068845	24911-24919
205	Pramode, Divakaran	May, 2004	US/India	DCL	MIA/MAD/D02200	24920
206	Puvathingal, Joseph	September, 2004	US/India	Troy	1073795	24921-24930
207	Rallin, Adriana	October, 2004	US/Chile	DCL	MIA/VAL/D05043	24931
208	Rapuano, Michele	June, 2005	US/UK	EuroUSA	L-9272	24932
209	Ratke, Daphne	December, 2004	US/Germany	EuroUSA	L-8711	24933-24934
210	Reese, Jerry	July, 2004	US/Australia	Troy	1070934	24935-24942
211	Richsteiger, Petra	March, 2004	US/Germany	CFR	RINFEL040154	24943-24950

212	Rigersa, Ahmetaj	March, 2005	US/Italy	SSL	SSLORF58468	24951-24963
213	Robayo, Luis	June, 2004	US/Colombia	DCL	MIA/CTG/D03659	24964-24971
214	Rodriguez, Luz	October, 2004	US/Spain	Troy	1075078	24972-24974
215	Romero, Cesar	December, 2004	US/China	CaroTrans	LAXSHA0449002	24975-24976
216	Rooke, Shawn	September, 2004	US/UK	Tober	41041184	24977-24981
217	Rose, Mitch	September, 2004	US/UK	Troy	1073858	24982-24984
218	Rosebrock, Mike	February, 2004	US/Australia	CFR	RINSYD040054	24985
219	Rubins, Noah	March, 2004	US/France	CFR	RINPRS040160	24986-24990
220	Rukinirana, Vastina	January, 2004	US/Uganda	Troy	1063360	24991-24998
221	Salerno, Christine	September, 2004	US/UK	CFR	RIFEL040359B	24999
222	Sandnes, Petter	May, 2004	US/Norway	Troy	1068951	25000-25007
223	Santajuliana, David	December, 2004	US/Argentina	SSL	SLI109456	25008-25013
224	Scannapieco, Thomas	May, 2004	US/Germany	Troy	1068120	25014-25021
225	Scilabro, Valerie	December, 2004	US/Germany	CaroTrans	MIAHAM0450002	25022-25024
226	Seah, Sturat	June, 2004	US/Australia	EuroUSA	L-7898	25025
227	Selznick, Rob	November, 2004	US/Thailand	CaroTrans	SFOBAN0448001	25026-25028
228	Seniuk, Tim	April, 2004	US/UK	EuroUSA	L-7664	25029-25030
229	Seriah, Pantelis	December, 2004	US/Cyprus	CaroTrans	LAXLIM0452001	25031-25033
230	Sertori, Nicolo	August, 2003	US/Switzerland	CFR	RIRTM030223D	25034
231	Shah, Vinit	June, 2004	US/India	DCL	MIA/MUM/D02175	25035-25041
232	Shashi, Paul	February, 2005	US/UK	Tober	41041958	25042-25048
233	Sheldon, Nathan	June, 2004	US/UK	EuroUSA	L-7946	25049
234	Sherman, Sophie	May, 2004	US/UK	SSL	SLI108518	25050-25057
235	Shourot, Maurice	August, 2004	US/Austria	Troy	1071934	25058-25060
236	Sichta, Robert	September, 2004	US/UK	Troy	1073919	25061-25063
237	Singh, Navneet	January, 2005	US/India	CaroTrans	JERDEL0502002	25064-25065
238	Sinha, Saurabh	September, 2004	US/India	Troy	1073186	25066-25068
239	Smith, Heidi	September, 2004	US/UK	Tober	42040315	25069-25073
240	Soegiarto, Lorensia	February, 2004	US/Indonesia	Troy	1065288	25074-25076
241	Soens, Marcel	October, 2004	US/Germany	EuroUSA	L-8588	25077-25078
242	Spunata, Susan Lee	September, 2004	US/India	Troy	1074078	25079-25081
243	Stanley, Cynthia	February, 2004	US/Australia	EuroUSA	L-7449	25082-25083
244	Stapleton, Philip	September, 2004	US/Ireland	Tober	41041059	25084-25088
245	Starosta, Jose	January, 2005	US/Brazil	SSL	SSLORF57201	25089-25103
246	Steinert, Susanne	May, 2004	US/France	CFR	RINLEH040199	25104-25110
247	Sverker, Aberg	May, 2004	US/Sweden	Troy	1068409	25111-25116
248	Svododnikova, Dita	July, 2004	US/Czech	Troy	1071193	25117-25125
249	Swamiinithan, Raghav	October, 2004	US/India	Troy	1074551	25126-25128
250	Syed, Asmaa	February, 2004	US/Saudi Arabia	Shipco	JED1326748	25129-25132
251	Sylvester, Roger	January, 2005	US/Greece	CaroTrans	CLVATH0504001	25133-25134
252	Takahashi, Shunji	January, 2005	US/Japan	CaroTrans	CHXKOB0501001	25135-25136
253	Taylor, Allen	August, 2003	US/UK	CFR	RIFEL030247B	25137
254	Thompson, Simon	April, 2005	US/New Zealand	CaroTrans	SFOAUC0513001	25138-25140
255	Tjio, Hoyin	September, 2004	US/China	Troy	1073171	25141-25143
256	Tong, Mitchell	October, 2004	US/Australia	EuroUSA	AL-0055	25144-25148
257	Torbet, James	August, 2004	US/France	DCL	MIA/PAR/D02280	25149
258	Torres, Jacqueline	July, 2004	US/Netherlands	EuroUSA	L-8154	25150-25151
259	Trafton, David	October, 2004	US/Colombia	DCL	MIA/CTG/D03727	25152
260	Tran, Binh	May, 2004	US/Vietnam	SSL	SLI108447	25153-25157
261	Turnbull, David	July, 2004	US/South Africa	DCL	MIA/DBN/D02194	25158
262	Vasquez, Andrea	March, 2005	US/Honduras	SSL	SSLORF58794	25159-25166
263	Veide, Rutt	April, 2004	US/Estonia	SSL	SLI108308	25167-25172

264	Venky, Elnel	November, 2003	US/India	DCL	MIA/MAD/D02181	25173-25178
265	Wade, Pat	January, 2005	US/UK	EuroUSA	L-8772	25179-25187
266	Weizmann, Daniel	August, 2004	US/Israel	Tober	41041005	25188-25189
267	Wibonele, Kasanda	August, 2004	US/Tanzania	Troy	1072493	25190-25192
268	Wiesauer, Guenther	December, 2004	US/Austria	EuroUSA	L-8734	25193-25205
269	Woodcock, Tim	September, 2004	US/Saudi Arabia	Troy	1073614	25206-25208
270	Wynne, Kim	November, 2004	US/Norway	DCL	MIA/OSL/D02340	25209
271	Yegin, Deniz	November, 2004	US/Turkey	Troy	1075558	25210-25212
272	Yegin, Pinar	June, 2004	US/Turkey	Troy	1070202	25213-25215
273	Yuxin, Liu	January, 2005	US/China	CaroTrans	CHXHKN0453003	25216-25217
274	Zachriadou, Vicky	August, 2004	US/Cyprus	Troy	1072973	25218-25220
275	Zak, Peter	February, 2005	US/Slovakia	SSL	SSLORF57294	25221-25234
276	Zieme, Robin	January, 2005	US/UK	Tober	42050050	416, 25235-39
277	Zong, Miao	August, 2004	US/France	Troy	1071949	25240-25243
278	Zuberi, Ahmad	July, 2004	US/Pakistan	DCL	MIA/KHI/D02199	25244

(App. 9A; App. 10) (“Shipment chart”).

77. Patrick Costadoni estimates that Worldwide Relocations handled three hundred to four hundred shipments in its first year of business and approximately twelve hundred shipments total. (App. 5 at 185, 191-92).

78. CADRS received one hundred fifty-four complaints by shippers against Worldwide Relocations. (App. 1 at 2).

79. The record documents specific complaints against Worldwide Relocations, indicating that Worldwide Relocations failed to deliver cargo, refused to return the pre-paid freight, or failed to pay the common carrier engaged by Worldwide Relocations. In some cases, the shipper was forced to pay another carrier or warehouse to have the cargo released. (App. 5 at 200-03; App. 10, e.g. 439-44, 468-78, 550-60, 669-70, 698-706, 736-58, 890-97, 967-82, 1009-12, 24881).

80. Worldwide Relocations was unable to pay some of its vendors and, according to Patrick Costadoni, “we weren’t a viable company at that point, I wasn’t a viable company, . . . I couldn’t pay for anything because I had no assets myself.” (App. 5 at 202).

81. When it became clear that Worldwide Relocations was no longer a viable company, Patrick Costadoni attempted to assist shippers to locate and obtain their household goods. (App. 5 at 200-03). For example, Patrick Costadoni, under his name as CEO, mailed out letters to both shippers and secondary NVOCCs explaining the situation and encouraging them to work out delivery and payment arrangements. (App. 10 at 629-30). At this point, he provided “the booking number, the vendor’s name and address, a contact person if possible, so that every person that we still had a record of [their] whereabouts, they knew where their goods were.” (App. 5 at 203).

82. Patrick Costadoni estimated that sixty to seventy shipments were left stranded by Worldwide Relocations. (App. 5 at 201).

4. Boston Logistics and Lucy Norry

83. Boston Logistics was established as a Florida for profit corporation on March 29, 2005. Elizabeth Hudson was listed as president, secretary, treasurer, and director. (App. 21 at 1950-56).

84. Elizabeth Hudson agreed to lend her name as a figurehead president of Boston Logistics. (App. 6 at 238; App. 7 at 268-69; App. 5 at 223-24). Elizabeth Hudson was Patrick Costadoni's girlfriend and had a chronic back injury which limited her ability to work. (App. 5 at 223; App. 7 at 280-82.) Elizabeth Hudson ran errands, did some filing, and made some debt collection calls. (App. 5 at 224). She used the company's debit card for her personal medical expenses. (App. 6 at 253-54).

85. Lucy Norry invested approximately \$10,000 to start Boston Logistics. (App. 6 at 234-35; App. 4 at 163). She used money from a condominium that she sold and thought the company would generate income for her. (App. 6 at 204; App. 7 at 281 (Elizabeth Hudson thought Lucy "was hoping this would be her last go at it and make a little nest egg for herself.")). Lucy Norry also used the name Lina Serruti. (App. 6 at 232).

86. Lucy Norry ran Boston Logistics on a day to day basis, leased office space, served as the accountant, issued invoices, produced shipping instructions, and dispatched shipments. (App. 6 at 238-40; App. 7 at 270-71, 272-81; App. 23 at 1963).

87. Lucy Norry controlled Boston Logistics's bank accounts by virtue of possession of the debit card linked to the accounts as well as a signature stamp in Elizabeth Hudson's name which was used to sign checks. (App. 23 at 1963; App. 6 at 242-43; App. 7 at 276-78).

88. Boston Logistics conducted business at leased office space and at Patrick Costadoni's home. (App. 6 at 234-42; App. 7 at 269-70, 273). Patrick Costadoni served as a consultant to Boston Logistics although he was also working for another company. (App. 5 at 226).

89. On the advice of Patrick Costadoni, Lucy Norry obtained a Department of Transportation license and bond for Boston Logistics for their domestic moves. (App. 6 at 244-45).

90. Boston Logistics maintained an Internet website and solicited business through its website and other Internet portal sites and also paid third parties for sales leads. Boston Logistics offered services in its own name. (App. 24 at 1971-84).

91. The proprietary shippers hired Boston Logistics to transport their goods from point A to point B. (App. 5 at 224). Boston Logistics advertised on the Internet that it would "assist you all the way through your move." (App. 24 at 1971).

92. Boston Logistics's Internet advertising, in September of 2005, offered comprehensive shipping services including door to door, door to port, port to door, and port to port, as well as less than container load, full container load, and auto shipping. (App. 2 at 15; App. 24 at 1973-74).
93. Boston Logistics stated that it provided "the best tracking and shipment updates in the industry" and that shipments contained "your goods and you have [the] right to know where they are at any given time." (App. 24 at 1978).
94. Boston Logistics offered insurance which would cover belongings "from time of pick up, on the ocean, and delivery into your residence at your final destination." (App. 24 at 1980).
95. Shippers were given estimates which included items such as: loading and unloading, disassembling/reassembling furniture, and full destination service which included delivery into the residence, unpacking, and full clean up. (App. 26 at 1996, 2011, 2046).
96. Boston Logistics paid port to port or multimodal transportation charges, entered into affreightment agreements with underlying shippers, arranged for inland transportation, and paid for inland freight charges on through transportation movements. (App. 23 at 1964; App. 6 at 258-59).
97. Boston Logistics profited by charging the proprietary shipper a figure more than the actual ocean freight charged by the servicing NVOCC and by marking up the other services they provided including other multimodal transportation, packing, and insurance charges. (App. 26, e.g. 1988, 1992, 2002, 2014, 2035). For a number of shipments, the shipment files contain a form calculating the profit made on the shipments. (App. 26, e.g. 2002-09, 2035-40).
98. Boston Logistics invoiced the shipper for the shipment, generally requiring payment in full in advance, usually via an electronic deposit, check by phone, or credit card. (App. 26 at 2027-34).
99. Shipping documents indicate that the shipments made by Boston Logistics were primarily personal effects, household goods, and vehicles being transported from the United States to a foreign country. (App. 26, e.g. 2005, 2015, 2025, 2036).
100. Boston Logistics booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to Boston Logistics identifying the shipper/exporter as Boston Logistics, identifying the proprietary shipper c/o Boston Logistics, or identifying the proprietary shipper with the shipper's address. (App. 26, e.g. 1989, 1997, 2005, 2012, 2015, 2024, 2032, 2036, 2053).
101. Boston Logistics handled the following ten shipments between June, 2005, and September, 2005:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Bateman, Dennis	June, 2005	US/New Zealand	CFR	RIN050200	1986-1991
2	Caceres, Juan	June, 2005	US/Chile	Econocaribe	MIA-048424	2002-2009
3	Davis, Walter	September, 2005	US/New Zealand	CaroTrans	CSCWEL0538001	2010-2013
4	Carrillo, Maria	June, 2005	US/Netherlands	CaroTrans	NOLRDM0521001	1992-2001
5	Fernandez, Kevin	August, 2005	US/Spain	EuroUSA	L-9548	2014-2020
6	Gray, Sebastian	June, 2005	US/Germany	CaroTrans	HOUSTU0522001	2021-2026
7	Itai, Gad	July, 2005	US/Israel	CaroTrans	BOSASD0528001	2027-2034
8	Nason, Emily	July, 2005	US/Hong Kong	CaroTrans	LAXHKN0527004	2035-2040
9	Patel, Vimal	July, 2005	US/South Africa	CaroTrans	CHXJOH0528001	2041-2047
10	Totesaut, Robert	June, 2005	US/Venezuela	Econocaribe	1-208386	2048-2056

(App. 25A; App. 26) (“Shipment chart”).

102. CADRS did not report receiving any complaints by shippers against Boston Logistics and BOE did not identify any specific complaints against Boston Logistics. (App. 1 at 2; App. 25A).

103. One consumer indicates in a letter to Boston Logistics that he was over-billed for his shipment, stating:

These fees ought to have been covered by you, as stated in my contract. I am disappointed by the fact that you misled me when quoting the price and later failed to acknowledge your responsibility. Moreover, in order to secure the extra charges that were beyond those stated in the contract, you withheld the release of my household goods and threatened to have them shipped back and auctioned.

(App. 26 at 2034).

104. One bill of lading lists the proprietary shipper’s name c/o Boston Logistics Corp. but with Tradewind’s mailing address in New York.¹⁴ (App. 26 at 2015).

105. There is an August 31, 2005 unsigned personal money order to Carotrans International, which appears to be payment for the Yoseph Dahan shipment. This money order has the name “Tradewind Logistics Inc.” printed by hand on it. (App. 26 at 2058). This is listed by BOE in both the Boston Logistics and Tradewind shipment charts. (App. 25A; App. 28A). The address on the personal money order is Owego, NY and the other paperwork for that shipment has the Tradewind Consulting name and address on the letterhead. (App. 26 at 2058-61). Therefore, it appears that this is a Tradewind Consulting shipment and it has been removed from the list of Boston Logistics shipments.

¹⁴ The Bill of Lading actually lists “Owega,” which appears to be a misspelling of “Owego.” The rest of the address matches Tradewind’s address.

5. Tradewind Consulting and Lucy Norry

106. Tradewind Consulting was incorporated in New York state on April 20, 2005. Patrick Costadoni taught himself about New York state corporate requirements to set up Tradewind. (App. 5 at 216).

107. The corporate documents identified the president of Tradewind as Angel Sanchez, Lucy Norry's nephew. Angel Sanchez agreed to the use of his name as president of Tradewind, as a figurehead, in exchange for a fee. (App. 5 at 212-13; App. 6 at 262; App. 4 at 166).

108. Patrick Costadoni decided that if Worldwide Relocations was going to fail, he could not be a part of anything else. But, he wanted to help his employees by providing consulting work. He believed that if a company had no complaints that it would stay off of the Commission's scope. (App. 5 at 212-15).

109. Tradewind operated from the living room of Patrick Costadoni's Florida home while he worked in the kitchen for another NVOCC. (App. 5 at 219; App. 6 at 265). However, the address used in correspondence and principle place of business listed was the address of Lucy Norry's nephew, Angel Sanchez, in Owego, New York. (App. 5 at 219-20).

110. Lucy Norry provided approximately \$10,000 to fund the startup of Tradewind. (App. 6 at 234-35, 262-63). Lucy Norry controlled Tradewind's bank accounts. (App. 6 at 264; App. 4 at 166). Lucy Norry served as the accountant for Tradewind and issued invoices, produced shipping instructions, and dispatched shipments. (App. 6 at 263; App. 4 at 166).

111. Business correspondence used the names Tradewind Consulting, TradeWind Consulting, Tradewind Business Consulting, Inc., and Tradewind Logistics. (App. 29 at 2420, 2486, 2493, 2529, 2700).

112. A review of Tradewind's website in September of 2005 shows that it solicited business through its website. (App. 27 at 2400-08). Patrick Costadoni was paid to design Tradewind's website. (App. 5 at 217). Tradewind also paid third parties for sales leads. (App. 23 at 1967).

113. Tradewind's Internet advertising offered "high quality shipping services at competitive prices" and promised to "use[] its global network of agents to expedite your belongings [to] their destination." (App. 27 at 2400). Tradewind offered a full range of services including: air and ocean freight shipments; full packing and loading services, customized to your need; diligent and knowledgeable customer service; and delivery to your door in almost every country. (App. 27 at 2400).

114. Tradewind's Internet advertising stated that:

We are not classified as an international shipping company. Instead, we prefer to think of ourselves as personalized travel consultants. Tradewind Consulting organizes your services, negotiates with vendors and books your move with licensed moving, shipping and delivery agents worldwide. We rely on them to produce the necessary documentation and to comply with all federal regulations regarding your shipment. Unlike other shipping companies, you are in complete control of your shipment every step of the way.

(App. 27 at 2401).

115. Tradewind offered services in its own name. (App. 27 at 2400-08). The proprietary shippers hired Tradewind to transport their goods from point A to point B. (App. 5 at 224).

116. Tradewind paid port to port or multimodal transportation charges, entered into affreightment agreements with underlying shippers, arranged for inland transportation, and paid for inland freight charges on through transportation movements. (App. 23 at 1967).

117. Documents from Tradewind's shipment files show that Tradewind contacted various NVOCCs to obtain a quote for a shipment, issued quotes to its customers promising to provide transportation to a foreign destination, and issued invoices charging its customers a different amount (generally more) than it was charged by the secondary NVOCC. (App. 29, e.g. 2430-37, 2461-65, 2471-78, 2479-86, 2597-602, 2673-82).

118. Shipping documents indicate that the shipments made by Tradewind were primarily personal effects, household goods, and vehicles being transported from the United States to a foreign country. (App. 29, e.g. 2459, 2470, 2561).

119. Tradewind booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to Tradewind identifying the shipper/exporter as Tradewind Consulting, identifying the proprietary shipper c/o Tradewind, or identifying the proprietary shipper only. (App. 29, e.g. 2421, 2426, 2460, 2583, 2714).

120. Tradewind handled the following thirty-seven shipments between May, 2005, and September, 2005:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Arianpour, Fariden	May, 2005	US/Australia	DCL	NYC/MEB/D05651	2417-2422
2	Avila, Joe	August, 2005	US/Germany	Troy	1086960	2423-2429
3	Bakke, Hilde	July, 2005	US/Norway	CaroTrans	JEROSL0529001	2430-2437
4	Barton, Owen	July, 2005	US/UK	EuroUSA	L-9474	2438-2443
5	Bwire, Jaqueline	June, 2005	US/Kenya	Troy	1084674	2444-2448
6	Carter, Bridget	June, 2005	US/Ireland	CaroTrans	LAXFLX0521001	2449-2455
7	Castro, Freddy	August, 2005	US/Italy	Troy	1086772	2456-2460

8	Conklin, Kathy	September, 2005	US/UK	EuroUSA	L-9729	2461-2465
9	Cook, Robert	July, 2005	US/UK	EuroUSA	L-9492	2466-2470
10	Crithley, Nancy	July, 2005	US/UK	EuroUSA	L-9397	2471-2478
11	Dahan, Yoseph	July, 2005	US/Israel	CaroTrans	JERASD0527006	2479-2486
12	France, Xanta	June, 2005	US/UK	CaroTrans	HOULON0522004	2492-2498
13	Hafez, Shireen	June, 2005	US/Egypt	CaroTrans	CSCALX0522001	2499-2502
14	Ikekpeazu, Nkem	May, 2005	US/Nigeria	CaroTrans	JERANT0521001	2503-2508
15	Kang, Ellen	June, 2005	US/Korea	Troy	1084018	2509-2514
16	Khinasat, Johannes	August, 2005	US/Austria	Tober	41051128	2615-2525
17	Krejci, Lumir	July, 2005	US/Czech	Troy	1085733	2537-2544
18	Le Marrec, Kira	June, 2005	US/UK	CaroTrans	LAXFLX05212	2545-2549
19	Miros, Andrew	June, 2005	US/UK	Troy	1084972	2557-2562
20	Mungai, Wacuka	September, 2005	US/Kenya	CaroTrans	JERANT05322	2563-2569
21	Njolstad, Paul	July, 2005	US/Norway	Troy	1085195	2570-2578
22	Nkonjera, Brown	June, 2005	US/Zimbabwe	Troy	1084643	2579-2586
23	O'Reilly, Rachel	July, 2005	US/UK	EuroUSA	L-9473	2587-2590
24	Osborne, Rachel	August, 2005	US/UK	EuroUSA	L-9518	2591-2596
25	Platonova, Ekaterina	July, 2005	US/UK	EuroUSA	L-9411	2597-2602
26	Pollert, Jeffery	June, 2005	US/Germany	Troy	1083747	2603-2608
27	Powell, Kerrie	May, 2005	US/UK	Tober	42050184	2609-2623
28	Reilly, Kevin	July, 2005	US/Costa Rica	CaroTrans	CHXSJS0529001	2624-2629
29	Renie, Robert	July, 2005	US/Japan	CaroTrans	CHXYOK0527001	2630-2635
30	Rizzello, Claudia	August, 2005	US/Italy	Troy	1086373	2638-2645
31	Sandstedt, Christer	August, 2005	US/Sweden	Troy	1086620	2646-2656
32	Schoenrock, Eike	August, 2005	US/Germany	Troy	1087188	2657-2660
33	Skalli, Jawad	September, 2005	US/Morocco	Troy	1087708	2673-2682
34	Taylor, Chris	July, 2005	US/Australia	Troy	1085795	2683-2690
35	Tinas, Sevinc	July, 2005	US/Turkey	DCL	NYC/ITL/D03469	2691-2700
36	Voegeli, Sandra	July, 2005	US/Switzerland	DCL	NYC/BSL/D02996	2701-2708
37	Wegner, Maria	July, 2005	US/Germany	Troy	1085756	2709-2717

(App. 28A; App. 29) (“Shipment chart”).

121. CADRS received six complaints by shippers against Tradewind. (App. 1 at 2).

122. Consumer complaints against Tradewind included: extraneous charges, additional charges, incorrect invoices, and failure to provide bills of lading. (App. 29, e.g. 2490, 2576-77, 2654-56, 2679-81, 2699).

123. In one case where the shipper on the bill of lading is listed as “Christer Sandstedt c/o Tradewind,” Christer Sandstedt was not given the original bill of lading and was told that the cargo could not be released without authorization from Tradewind. (App. 29 at 2651, 2654-56).

124. Patrick Costadoni had recommended that Tradewind book moves and have the secondary NVOCC invoice the customers directly and just collect the commission. When asked what value Tradewind would add to that transaction, he stated “[b]ecause they would tell the [secondary NVOCC], as far as I know, see that’s something I don’t know and I think that that was flawed in my respect, is that you should be able to dictate exactly what the due agent fee [or commission] would be on a bill of lading.” (App. 5 at 218).

6. Moving Services and Sharon Fachler

125. Moving Services was established on September 18, 2001, as a Florida limited liability corporation with Sharon Fachler as the manager of the corporation. Sharon Fachler was the sole owner and corporate officer. (App. 11 at 1100-03; App. 12 at 1138; *see also* App. 11 at 1125).

126. Sharon Fachler was the manager and boss of Moving Services and he hired the employees. (App. 17 at 1179).

127. Sharon Fachler established a different limited liability corporation, Moving Services International, L.L.C. ("MS International"), in Florida on May 11, 2004, listing himself as manager. (App. 11 at 1106-07).

128. MS International is not a named respondent in this proceeding; however, Moving Services and MS International had the same principal business address and some common carriers were paid for Moving Services's ocean freight charges by check from the account of MS International. (App. 11 at 1106-07, 1125; App. 14 at 3100-01, 3105-06, 3176-77).

129. On June 7, 2004, Benjamin Schiff, a Florida attorney, filed paperwork with the Florida Secretary of State's office adding Bogdan Koszarczyz as a manager of MS International. (App. 11 at 1108-09).

130. On June 24, 2004, MS International submitted an FMC-18 application to the Commission seeking an NVOCC license. The application was signed by Sharon Fachler and listed Bogdan Koszarczyz as the company's qualified individual. While the FMC-18 was being processed, CADRS began receiving complaints about the ocean transportation activities of Moving Services and MS International and the FMC-18 application for MS International was withdrawn on September 20, 2004. (App. 11 at 1112-27; App. 2 at 12).

131. On March 2, 2005, Bogdan Koszarczyz filed with the Florida Secretary of State's office an amendment to the articles of organization of MS International, stating that "Bogdan Koszarczyz never consented to becoming the manager of the company and the act of naming him as manager was done without his knowledge or consent." (App. 11 at 1110-11).

132. Respondent Moving Services provided international moving services to their customers, who were primarily individuals relocating from the United States to a foreign country. (App. 12 at 1139; App. 13A; App. 14 at 3004-08, 3017-20, 3076-77, 3150-53).

133. Moving Services maintained an Internet website and solicited business through this website and other Internet portal sites. (App. 12 at 1139). Moving Services also paid third parties for sales leads. (App. 12 at 1139).

134. Moving Services paid port to port or multimodal transportation charges, entered into affreightment agreements with underlying shippers, arranged for inland transportation, and paid for inland freight charges on through transportation movements. (App. 12 at 1140).

135. Moving Services provided door to door or door to port quotes and required payment in advance, usually via an electronic deposit or check by phone. The quote would include all services including ocean freight, marine insurance, port fees, line haul charges, and export/import documentation fees. (App. 12 at 1139).

136. After issuing an invoice to its customer and receiving payment in full, Moving Services would book the cargo with one of several licensed NVOCCs and would arrange for movers to pick up the goods. (App. 12 at 1139). The secondary NVOCC would look to Moving Services and not the proprietary shipper for payment of the invoiced amount. (App. 12 at 1140; App. 17 at 1182).

137. Shipping documents indicate that the shipments made by Moving Services were primarily personal effects, household goods, and vehicles being transported from the United States to a foreign country. (App. 14, e.g. 3004, 3010, 3049, 3145).

138. Moving Services booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to Moving Services primarily identifying the shipper/exporter name and address as Moving Services. (App. 14, e.g. 3000, 3004, 3016, 3032). For other shipments, the bills of lading were issued to Moving Services identifying the shipper/exporter as the proprietary shipper c/o Moving Services, identifying the proprietary shipper's name with Moving Services's address, or identifying Moving Services as agent for the proprietary shipper. (App. 14, e.g. 3025, 3036, 3040, 3067, 3121, 3136, 3140, 3145, 3173).

139. Records from some secondary NVOCCs show that Moving Services occasionally asked the NVOCC to hold a shipment. (App. 14, e.g. 3098, 3138).

140. Moving Services handled the following one hundred twenty-five shipments between December, 2003, and January, 2005:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Ajose, Durojaiye	June, 2004	US/Nigeria	Troy	1069604	3000-3003
2	Alanzi, Mishal	June, 2004	US/Kuwait	SSL	SLI108620	3004-3008
3	Al-Essa, Mohammad	August, 2004	US/Kuwait	DCL	MIA/KUW/D02239	3009
4	Alonzo, Raquel	July, 2004	US/France	CFR	NYPAR041404A	3010
5	Alsaffar, Abdulmohsen	December, 2004	US/Kuwait	SSL	SLI109566	3011-3015
6	Ansari, Zaheda	July, 2004	US/Australia	CFR	NYSYD041220E	3016
7	Attia, Sandy	June, 2004	US/Italy	Troy	1069518	3017-3020
8	Baker, Richard	October, 2004	US/Ecuador	SSL	SLI109092	3021-3024
9	Bandappa, Ratkal	December, 2004	US/India	DCL	MIA/MAD/D02223	3025
10	Battaglia, Jean	August, 2004	US/Italy	Troy	1071916	3026-3029
11	Baumgartner, Martin	December, 2004	US/Switzerland	DCL	MIA/BSL/D02277	3030

12	Ben-Shemesh, Yaacov	November, 2004	US/Israel	DCL	MIA/HAI/D02185	3031
13	Blanks, Gary	June, 2004	US/Hungary	Troy	1070358	3032-3035
14	Briginshaw, Alison	May, 2004	US/UK	Troy	1069336	3036-3039
15	Chan, Adrienne	September, 2004	US/China	DCL	MIA/HKG/D03454	3040
16	Chan, Saulai	May, 2004	US/China	Troy	1068777	3041-3044
17	Chatzichristos, Kostas	June, 2004	US/Greece	Troy	1070178	3045-3048
18	Crowley, Diarmuid	September, 2004	US/Germany	CFR	NYBRV041712B	3049
19	Dalhause, Janet	February, 2004	US/UK	CFR	RIFEL040042D	3050
20	Del Brenna, Giovanni	May, 2004	US/Italy	Troy	1068213	3051-3054
21	Dere, Rachel	August, 2004	US/UK	CFR	NYSUM041427C	3055
22	Dieckmann, Christian	December, 2004	US/Costa Rica	DCL	MIA/SJO/D03790	3056
23	Domingo, Dawn	September, 2004	US/Philippines	Troy	1073723	3057-3059a
24	Dosch, Roland	September, 2004	US/Germany	CFR	NYBRV041712D	3060
25	Fisahn, Andre	December, 2003	US/Sweden	CFR	NYBRV031955E	3061
26	Fredieu, Marie	April, 2004	US/Germany	Troy	1067899	3062-3065
27	Gaeris, Andres	October, 2004	US/Argentina	DCL	MIA/BAA/D04373	3066
28	Ghezzi, Ivan	November, 2004	US/Peru	DCL	MIA/CAL/D04294	3067
29	Godfrey, Karin	July, 2004	US/UK	CFR	LANOR041324K	3068
30	Goestl, Manfred	December, 2004	US/Austria	DCL	MIA/VNA/D02298	3069
31	Gomez, Almudena	September, 2004	US/Spain	CFR	NYMAD041565D	3070
32	Grimaud, Pierre	November, 2004	US/France	DCL	MIA/PAR/D02297	3072
33	Grobler, William	April, 2004	US/UK	CFR	LAFEL040596G	3073
34	Guell, Giuseppe	October, 2004	US/Australia	CFR	LASYD041868C	3074
35	Gulec, Fern	March, 2004	US/UK	CFR	RIFEL040139D	3075
36	Haenga, Rutu	January, 2005	US/New Zealand	DCL	MIA/WLG/D02127	3076
37	Hagan, Brad	September, 2004	US/Germany	CFR	RIBRV040358C	3077
38	Haldane, Jack	August, 2004	US/UK	CFR	NYSUS041607A	3078
39	Hall, Ann	September, 2004	US/New Zealand	Troy	1073727	3079-3082
40	Hansen, Evanie	September, 2004	US/UK	CFR	RIFEL040359D	3083
41	Harrison, Delroy	June, 2004	US/UK	Troy	1069817	3084-3087
42	Herbert, Kristie	September, 2004	US/UK	CFR	RITHP040343C	3088
43	Ho, Jo Lene	May, 2004	US/Malaysia	Troy	1068291	3089-3091
44	Horowitz, Katy	September, 2004	US/UK	DCL	MIA/LON/D03488	3092
45	Hudson, Guy	October, 2004	US/Spain	DCL	MIA/BAR/D02461	3093
46	Hufnagel, Robert	October, 2004	US/Austria	DCL	MIA/VNA/D02316	3094
47	Huguenin, Sally	August, 2004	US/France	CFR	NYPAR041473Z	3095
48	Huh, Chang	September, 2004	US/South Africa	SSL	SLI109045	3096-3101
49	Iqbal, Nawrin	September, 2004	US/Bangladesh	DCL	MIA/CHT/D02125	3102
50	Jennison, Barbara	August, 2004	US/South Africa	SSL	SLI108905	3103-3106
51	Jerez, Juan	September, 2004	US/Spain	DCL	MIA/BAR/D02455	3107
52	Jones, Kristine	October, 2004	US/Belgium	CFR	NYBRV041903D	3108
53	Katnas, Sinan	September, 2004	US/Turkey	DCL	MIA/ITL/D02172	3109
54	Kaya, Lionel	October, 2004	US/France	CFR	NYRES041903C	3110
55	Kihlstrom, Eric	March, 2004	US/UK	CFR	RIFEL040117C	3111
56	Kirloskar, Janaki	July, 2004	US/India	Troy	1070776	3112-3115
57	Ly, Helen	September, 2004	US/France	CFR	NYRTM041672B	3116
58	Mangalorea, Siddarth	April, 2004	US/India	Troy	1067900	3117-3120
59	Mangeol, Dominique	December, 2003	US/France	CFR	RIBRV030442B	3121
60	Mason, Julie	February, 2004	US/UK	CFR	RINFEL040095	3122
61	Mathias, Norbert	January, 2004	US/France	CFR	RIBRV030481E	3123
62	Matthews, Stella	December, 2004	US/Belize	DCL	MIA/BZE/D00096	3124
63	McGowan, Rosemarie	June, 2004	US/UK	Troy	1069609	3125-3128

64	Mirzoyev, Elchin	July, 2004	US/France	CFR	LAFRA041163Z	3129
65	Morrissey, Pamela	July, 2004	US/UK	CFR	LAFEL041384A	3130
66	Mullins, Troy	September, 2004	US/Switzerland	DCL	MIA/BSL/D02271	3131
67	Nair, Rajesh	September, 2004	US/Switzerland	CFR	NYBRV041565C	3132
68	Narayanasamy, Suganthi	September, 2004	US/Singapore	Troy	1073447	3133-3135
69	O'Brien, Grady	October, 2004	US/Ireland	SSL	SLI109198	3135-3139
70	O'Connor's, Carol	March, 2004	US/UK	SSL	SLI107992	3140-3143
71	Olofsson, Anna	September, 2004	US/Sweden	DCL	MIA/GOT/D02253	3144
72	Pearson, Nicolas	August, 2004	US/UK	SSL	SLI108937	3145-3149
73	Pichan, Ravi	May, 2004	US/India	Troy	1069082	3150-3153
74	Rahinah, Binti	November, 2004	US/Malaysia	DCL	MIA/PTK/D02328	3154
75	Rapez, Daniel	September, 2004	US/France	CFR	NYALB041672A	3155
76	Rascher, Uwe	July, 2004	US/Germany	CFR	LASTE041381C	3156
77	Redwood, Jonathan	September, 2004	US/Australia	Troy	1073455	3157-3160
78	Requejo, Gustavo	August, 2004	US/Spain	Troy	1072318	3161-3164
79	Roche, Jeff	November, 2004	US/Australia	DCL	MIA/FRE/D02174	3165
80	Rodriguez, Marina	October, 2004	US/Brazil	DCL	MIA/RIO/D03201	3166
81	Rossetti, Nathalie	September, 2004	US/France	CFR	NYFRA041672C	3167
82	Seville, Christopher	May, 2004	US/France	Troy	1069373	3168-3171
83	Shahi, Surendra	February, 2004	US/India	DCL	MIA/DLH/D02139	3172
84	Collegian Inc.	September, 2004	US/Spain	SSL	SLI109026	3173-3177
85	Short, Greg	September, 2004	US/UK	DCL	MIA/LON/D03484	3179
86	Shuker, Elizabeth	September, 2004	US/UK	CFR	NYFEL041671B	3178
87	Simmons, Jane	October, 2004	US/New Zealand	DCL	MIA/AKL/D02619	3180
88	Singh, Suhpreet	October, 2004	US/UK	DCL	MIA/LIV/D02246	3181
89	Smith, Steven	July, 2004	US/Malaysia	Troy	1071019	3182-3184
90	Southwell, Randy	November, 2004	US/Brazil	DCL	MIA/RGR/D02712	3185
91	Stolle, Birget	June, 2004	US/Germany	Troy	1069602	3186-3189
92	Swanson, Lyndy	December, 2004	US/Australia	DCL	MIA/SYD/D02543	3190
93	Tagle, Jose	October, 2004	US/Chile	DCL	MIA/VAL/D05099	3191
94	Tahboub, Muhannad	October, 2004	US/Jordan	SSL	SLI109151	3192-3195
95	Tamar, Tamer	September, 2004	US/UK	CFR	NYFEL041513D	3196
96	Tan, Darryl	September, 2004	US/Malaysia	DCL	MIA/PTK/D02305	3197
97	Kallio, Marke	September, 2004	US/Finland	DCL	MIA/HEL/D02346	3198
98	Van Der Tempel, Klaas	July, 2004	US/Netherlands	Troy	1071564	3199-3202
99	Vasquez, Rafael	October, 2004	US/El Salvador	DCL	MIA/SSV/D03494	3203
100	Von Pfetten, Gabriella	June, 2004	US/Australia	Troy	1070181	3204-3207
101	Walle, Kristen	June, 2004	US/Norway	Troy	1069810	3208-3210
102	Wan, Kitty	September, 2004	US/China	DCL	MIA/HKG/D03426	3211
103	Warren, Soja	September, 2004	US/UK	CFR	LALAN041750A	3212
104	Webster, Nick	October, 2004	US/UK	CFR	NYLON041856C	3213
105	Weil, Aviv	September, 2004	US/UK	CFR	RIFEL040359C	3214
106	Wertenbruch, Dirk	October, 2004	US/Germany	CFR	RIBRV040383B	3215
107	Winskye, Richard	September, 2004	US/Costa Rica	DCL	MIA/SJO/D03770	3216
108	Wittmer, Katja	January, 2004	US/Germany	CFR	RIBRV040033D	3217
109	Woody, George	December, 2003	US/Germany	CFR	RIBRV030442C	3218
110	Yu, Ying	May, 2004	US/UK	CFR	NYFEL040789D	3219
111	Zanin, Gilmar	October, 2004	US/Australia	DCL	MIA/SYD/D02530	3220
112	Betz, Germar	September, 2004	US/China	Troy	1073726	3221-3224
113	Zutara, Maria	September, 2004	US/Argentina	DCL	MIA/BAA/D04408	3225
114	Zweep, Robert	September, 2004	US/France	DCL	MIA/LHV/D02358	3226
115	Moser, Lisa	October, 2004	US/Switzerland	Tober	41041013	3227-3228

116	Khamliche, Tarik	September, 2004	US/UK	Tober	41041118	3229-3230
117	Chew, Martha	November, 2004	US/Hong Kong	Tober	41041302	3231-3232
118	Hazan, Leon	September, 2004	US/Israel	Tober	42040348-1	3233-3234
119	Wilkinson, Lee	October, 2004	US/UK	Tober	41041392	3235-3226
120	Breckon, Frances	October, 2004	US/UK	Tober	41041342	3237-3238
121	Carman, Rebecca	September, 2004	US/Australia	Tober	41041475	3239-3240
122	Rochford, Mpha	September, 2004	US/UK	Tober	41041400-01	3241-3242
123	Sexton	September, 2004	US/UK	Tober	41041400-02	3243
124	Person, Janeen	October, 2004	US/UK	Tober	41041479	3244-3245
125	Rao, Hindran	November, 2004	US/India	Tober	41041162	3246-0047

(App. 13A; App. 14) (“Shipment chart”).

141. The majority of the shipments were made after Sharon Fachler applied for an NVOCC license in the name of MS International on June 24, 2004. (App. 11 at 1112-27; App. 2 at 12; App. 13A; App. 14).

142. CADRS received thirty-four complaints by shippers against Moving Services. (App. 1 at 2).

7. Global Direct Shipping and Sharon Fachler

143. Global Direct Shipping is not incorporated in any state. (App. 2 at 13).

144. Global Direct Shipping claimed two mailing addresses: 3501 Silverside Road, 206 Naamans Building, Wilmington, Delaware, 19810, and 26 York Street, London, United Kingdom, W1U6PZ. (App. 18 at 1194; App. 20 at 1301, 1410, 1594).

145. The Delaware address used by Global Direct Shipping is actually the address of a company called The Delaware Company, an on-line entity offering corporate registry services. Contact with The Delaware Company revealed that Global Direct Shipping did not maintain any physical presence at this address and did not have permission to utilize The Delaware Company’s address. (App. 15 at 1153-56; App. 18 at 1194).

146. Global Direct Shipping utilized a company named Billing and Payment Systems, Inc. (“BPS”) as its agent for the collection and remittance of its invoices and ocean freight payments. (App. 20, e.g. 1213, 1229, 1238, 1299, 1301, 1420, 1581).

147. BPS was incorporated in Delaware in December of 2004 and maintained a primary business address in Florida. (App. 15 at 1157-58).

148. Sharon Fachler asked David Galapo to open BPS and explained that BPS was “like a check cashing place” and that he would “just receive checks from the people and you get a commission for it, and you just sign it off to whoever it has to go to.” (App. 17 at 1184). Galapo was hoping to “make some extra money on the side.” (App. 17 at 1184).

149. When BPS was established, its president was David Galapo, the brother in law of Sharon Fachler and a former employee of Moving Services. David Galapo opened two accounts in the name of BPS at a Bank of America branch office in Aventura, Florida, on December 13, 2004, at the instruction of Sharon Fachler, who was residing in Israel. (App. 16 at 1172-73; App. 17 at 1181-84).

150. According to David Galapo, Global Direct customers would send in their deposit to BPS and then BPS would pay the movers that did the job, with the remaining balance going back to Global Direct Shipping. (App. 17 at 1182, 1185).

151. In January of 2005, Jennifer Greco, the girlfriend of Sharon Fachler's brother, Arick Fachler, was listed as president, secretary, and treasurer of BPS and the signature cards on the accounts were changed from David Galapo to Jennifer Greco. (App. 16 at 1169; App. 17 at 1185).

152. Jennifer Greco explained her understanding of Sharon Fachler's businesses:

I was told that they were a moving company. I said, "What do you mean? What kind of stuff are they moving?" He said, no when we need somebody to move furniture from here to there, they help like contract people, like get other people to move other people; like they are the main part and they get other people to move other people's things. It didn't make much sense to me.

(App. 16 at 1168).

153. If Jennifer Greco needed to fix something, like her car, or needed to use any money, Sharon Fachler would allow her to use the check card but he would not send a paycheck. (App. 16 at 1174).

154. Sharon Fachler controlled BPS's account through on-line banking and a signature stamp. (App. 16 at 1169, 1172). Sharon Fachler directed payments and deposits. (App. 16 at 1170-73). He had all of the bank account and check card information, including copies of the front and back of the check card, and copies of the drivers' licenses of Jennifer Greco and Arick Fachler. (App. 17 at 1172, 1174).

155. In July of 2005, BPS filed a credit application with a licensed NVOCC based in Miami. The application was submitted in the name of "Global Direct Shipping/Billing & Payment," listed the Global Direct Shipping address in the UK as the applicant's mailing address, and provided as a bank reference the BPS bank account in Florida. The name in the signature block (Ellie Miller) for Global Direct Shipping is a name that also appears in correspondence between other NVOCCs and Global Direct Shipping. (App. 15 at 1159-62).

156. An analysis of the bank statements for the two Bank of America accounts controlled by Sharon Fachler via BPS shows that between December, 2004, and March, 2006, hundreds of thousands of dollars, primarily the proceeds of the shipments made by Global Direct Shipping, were deposited into and withdrawn from the two accounts. Between January 13, 2005, and January 25,

2006, a total of \$292,000.00 was transferred by wire to an account at an Israeli bank for the benefit of Moving Network, Ltd. (App. 2 at 13).

157. A July 8, 2005 email to a customer listed 3501 Silverside Rd. – 206 (or #206), Wilmington, DE, 19810, as the address for both Global Direct Shipping and BPS, although Global Direct Shipping also listed 26 York St., London, UK, as an address. (App. 20 at 1301).

158. The company at the Wilmington address did not know who was responsible for Global Direct Shipping and their staff threw away or wrote return to sender on the Global Direct Shipping mail they received, until BPS asked that Global Direct Shipping mail be forward to BPS. (App. 15 at 1153-56).

159. Global Direct Shipping operated an Internet website where it held itself out as an international shipping company offering door to door delivery of household goods, personal effects, and vehicles. (App. 18 at 1189-95).

160. A review of Global Direct Shipping's website in December of 2005 showed that Global Direct Shipping offered door to door and door to port shipping and stated: "GDS provides shipment internationally from origin to destination." (App. 18 at 1189, 1192).

161. Global Direct Shipping advertised that the "global network GDS has in its roster ensures that services are exceptional yet competitively priced. Through our detailed [k]nowledge of the international regulations, we offer safe, reliable and timely shipment to any city in the [w]orld." (App. 18 at 1189).

162. Global Direct Shipping also offered freight forwarding and advertised special services for last minutes moves, car or motorcycle shipping, and arts and antiques shipping. (App. 18 at 1190). Global Direct Shipping offered services in its own name. (App. 18 at 1190).

163. An emailed freight proposal from Global Direct Shipping dated June 13, 2005, stated:

Global Direct Shipping is a universal Logistics Company with alliances and agents in all seven continents. Through our knowledge and experience with International shipping, we provide safe, reliable and timely shipping all over the world. Our services include air and ocean shipment, full container load (FCL), less than container load (LCL), PO/PO, and consolidated shipments. Global Direct Shipping's agents are bonded, insured and licensed by the US Federal Maritime Commission (FMC).

(App. 20 at 1303-04).

164. Shipping documents indicate that the shipments made by Global Direct Shipping were primarily personal effects, household goods, and vehicles being transported from the United States to a foreign country. (App. 20, e.g. 1248, 1261, 1456, 1488, 1667).

165. Global Direct Shipping invoiced the shipper for the shipment, generally requiring payment in full within forty-eight hours, usually via an electronic deposit, check by phone, or credit card. (App. 20, e.g. 1301-02, 1308-10).

166. Global Direct Shipping booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. These licensed, secondary NVOCCs issued bills of lading to Global Direct Shipping identifying the shipper/exporter as Global Direct Shipping, identifying the proprietary shipper c/o Global Direct Shipping, identifying the proprietary shipper with Global Direct Shipping's address, or identifying the proprietary shipper's name and address. (App. 20, e.g. 1201, 1212, 1233, 1279, 1297, 1342, 1372, 1394, 1422, 1457, 1540, 1578, 1609, 1618, 1628).

167. Global Direct Shipping handled the following one hundred forty-nine shipments between January, 2005, and December, 2005:

No.	Proprietary Shipper	Date	Origin/ Destination	NVOCC	B/L No.	Bates Nos.
1	Abdel-Kadet, Farouk	May, 2005	US/Egypt	Econocaribe	17-958571	1197
2	Adsi, Osama	August, 2005	US/Jordan	SSL	SLI110958	1198-1200
3	Alexander, Tristan	July, 2005	US/Australia	SSL	SLI110920	1201-1204
4	Almutawa, Abdullah	January, 2005	US/Kuwait	Troy	1078659	1205-1207
5	Aston, Anna	July, 2005	US/Costa Rica	SSL	SLI110844	1208-1211
6	Aviles, Adela	April, 2005	US/Honduras	Econocaribe	8-615165	1212-1215
7	Axtell, Michael	February, 2005	US/UK	SSL	SLI110015	1215-1220
8	Ayanji, Sudhindra	April, 2005	US/India	Troy	1081236	1221-1223
9	Bader, Dirk	September, 2005	US/Germany	Econocaribe	8-970002	1224
10	Batterjee, Firas	June, 2005	US/Saudi Arabia	CaroTrans	LAXJED0525001	1225-1226
11	Bendelac, Uri	October, 2005	US/Israel	SSL	SLI111234	1227-1232
12	Benmansour, Karim	March, 2005	US/Morocco	Troy	1080225	1233-1235
13	Bernandez, Renate	August, 2005	US/Spain	SSL	SLI110939	1236-1240
14	Brandt, Melissa	March, 2005	US/New Zealand	SSL	SLI110110	1241-1244
15	Caporaletti, Mary Anne	June, 2005	US/Egypt	CaroTrans	JERALX0525001	1246-1247
16	Castaneda, Carolina	May, 2005	US/Venezuela	SSL	SLI110488	1248-1253
17	Chambers, Donald	September, 2005	US/UK	SSL	SLI111089	1254-1260
18	Chitekeshe, Concilia	June, 2005	US/South Africa	SSL	SLI110661	1261-1267
19	Clark, Carla	August, 2005	US/Brazil	CaroTrans	SEARDJ0531001	1268-1269
20	Cockburn, Adam	May, 2005	US/UK	EuroUSA	L-9209	1270-1273
21	Conley, Brian	May, 2005	US/UK	EuroUSA	L-9163	1274-1278
22	Connelly, Kate	June, 2005	US/Belgium	CaroTrans	BOSANT0521001	1279-1280
23	Cruz, Catalina	August, 2005	US/Chile	CaroTrans	JERVPO0535001	1281-1282
24	Cruz, Helena	April, 2005	US/Brazil	CaroTrans	SEARDJ0515001	1283-1284
25	Debabneh, Sana	October, 2005	US/Jordan	SSL	SLI111355	1285-1288
26	Dabestanie, Mahmood	October, 2005	US/UAE	SSL	SLI111315	1289-1292
27	Dancu, Christina	June, 2005	US/Romania	CaroTrans	MIABUC0525001	1293-1294
28	Del Rio, Juan	June, 2005	US/Norway	CaroTrans	NOLOSL0521001	1295-1296
29	Desai, Jai	September, 2005	US/India	APL	NJ2501586	1297-1328
30	Dogan, Ulka	February, 2005	US/Turkey	Troy	1079286	1329-1332
31	Dorgi, Dora	June, 2005	US/Hungary	Econocaribe	8-616483	1333
32	Doria, Andy	July, 2005	US/Philippines	SSL	SLI110685	1334-1337
33	Dunn, Elizabeth	October, 2005	US/Bolivia	SSL	SLI110938	1338-1341
34	Eman, Maria	March, 2005	US/Jordan	Troy	1080727	1342-1344

35	Erhart, Curtis	March, 2005	US/Turkey	Troy	1080544	1345-1347
36	Evlogimenos, Alkis	June, 2005	US/Cyprus	CaroTrans	CHXLIM0524001	1348-1349
37	Eyvanaki, Susan	July, 2005	US/UK	EuroUSA	L-9387	1350-1352
38	Farid, Hafiz	April, 2005	US/Pakistan	Troy	1082283	1353-1355
39	Fitzgerald, Daniel	April, 2005	US/Switzerland	EuroUSA	L-9071	1356-59, 1450
40	Fouad, Hisham	August, 2005	US/Dubai	CaroTrans	BALDBI0533003	1360-1361
41	Freidovich, Leonid	April, 2005	US/Sweden	SSL	SLI110118	1362-1367
42	Gabor, Carmen	October, 2005	US/Chile	SSL	SLI111174	1368-1371
43	Gachoka, John	April, 2005	US/Kenya	Troy	1082274	1372-1374
44	Gallagher, Liz	May, 2005	US/Ireland	EuroUSA	L-9263	1375-79, 1669
45	Garcia, Eduardo	September, 2005	US/Brazil	Econocaribe	24-731592	1380
46	Garzon, Belen	October, 2005	US/Spain	SSL	SLI111353	1381-1386
47	Gaspart, Oliver	August, 2005	US/Dem. Rep. Congo	SSL	SLI110937	1387-1393
48	Gavas, Evan	September, 2005	US/UK	SSL	SLI111173	1394-1406
49	Gira, Emmanuel	August, 2005	US/France	CaroTrans	CHXPAR0530001	1407-1408
50	Gomez, Sergio	March, 2005	US/Ireland	EuroUSA	L-9021	1409-1412
51	Grittmann, Sibylle	September, 2005	US/Panama	SSL	SLI110814	1413-1421
52	Gupta, Reema	February, 2005	US/India	Troy	1079612	1422-1425
53	Haghes, Laura	October, 2005	US/UK	EuroUSA	L-9866	1426-1429
54	Halliman, Peter	April, 2005	US/Malawi	SSL	SLI110271	1430-1435
55	Ham, Julie	July, 2005	US/Malaysia	CaroTrans	LAXPKL0522001	1436-1437
56	Hannen, Karron	May, 2005	US/Jamaica	CaroTrans	LAXKIN0515001	1438-1440
57	He, James	July, 2005	US/China	APL	NJ2501162	1441-1445
58	Heins, Erika	April, 2005	US/Germany	EuroUSA	L-9070	1446-50, 1358
59	Hencox, Adrian	February, 2005	US/UK	Troy	1079723	1451-1453
60	Henriksen, Espen	July, 2005	US/Norway	CaroTrans	JEROSL0528001	1454-1455
61	Inglis, Mike	September, 2005	US/Venezuela	Econocaribe	9-636626	1456
62	Iplixian, Panagiota	May, 2005	US/Greece	CaroTrans	JERPIR0520001	1457-1459
63	Islam, Sumaiya	August, 2005	US/Bangladesh	CaroTrans	CHXCTG0532001	1460-1462
64	Jaskovska, Eva	July, 2005	US/Latvia	CaroTrans	ATLGOT0524003	1463-1465
65	Jing, Angela	August, 2005	US/Hong Kong	CaroTrans	SFOHKN0534002	1466-1467
66	Juchnaite, Vilija	August, 2005	US/Lithuania	Econocaribe	9-970269	1468
67	Julin, Maija	April, 2005	US/Finland	Troy	1081560	1469-1471
68	Kankhulungo, Priscilla	September, 2005	US/Malawi	Econocaribe	11-980251	1471a
69	Kapitskaya, Marianna	May, 2005	US/France	EuroUSA	L-9162	1472-76, 1278
70	Kazim, Saeed	August, 2005	US/Pakistan	CaroTrans	BALKAR0531001	1477-1478
71	Khalil, Ahmad	June, 2005	US/Lebanon	CaroTrans	BALBRT0526002	1479-1481
72	Klein, Eduardo	August, 2005	US/Venezuela	SSL	SLI111098	1482-1487
73	Kulubis, Harry	May, 2005	US/Greece	SSL	SLI110326	1488-1493
74	Lakousta, Simona	May, 2005	US/Czech	Econocaribe	8-955220	1494
75	Lillestrand, Greg	September, 2005	US/Italy	SSL	SLI111095	1495-1503
76	Luh, Fredrick	August, 2005	US/Taiwan	CaroTrans	JERTPE0529001	1504-1505
77	Thomassee, Scott	May, 2005	US/China	CaroTrans	ALTSHA0521005	1506-1507
78	Mahmoud, Hager	September, 2005	US/Tunisia	Econocaribe	22-594356	1508
79	Malcolm, Stewart	April, 2005	US/UAЕ	Troy	1082273	1509-1511
80	Marque, Frank	September, 2005	US/Japan	SSL	SLI111110	1512-1518
81	Marque, Frank	September, 2005	US/Japan	CaroTrans	CHXYOK537002	1519-1521
82	McDonad, Trina	August, 2005	US/Australia	CaroTrans	MIAMEL0532003	1522-1523
83	Meda, Kasturiranga	March, 2005	US/India	Troy	1081047	1524-1526
84	Mehta, Keval	February, 2005	US/South Africa	Troy	1079809	1527-1529
85	Mirilli, Miguel	September, 2005	US/Brazil	CaroTrans	CHXRDJ0533002	1530-1531
86	Murdry, Geraud	December, 2005	US/France	EuroUSA	L-10116	1532-1535

87	Murray, Denise	April, 2005	US/UK	EuroUSA	L-9107	1536-1539
88	Nanji, Vazirali	September, 2005	US/India	APL	NJ2501586A	1540-1549
89	Nassanian, Bedros	February, 2005	US/Cyprus	CaroTrans	DALLIM0502001	1550-1552
90	Navarre, Joanne	June, 2005	US/UK	Knight Int'l	700/20224-00/04	1553
91	Navarro, Yila	October, 2005	US/Peru	Econocaribe	8-619788	1554
92	Norga, Erik	August, 2005	US/Netherlands	CaroTrans	CHXANT0527002	1555-1556
93	Novak, Tibor	August, 2005	US/Hungary	Econocaribe	9-636745	1557
94	Ogbu, Ogugua	September, 2005	US/Nigeria	SSL	SLI111172	1558-1563
95	Painter, Herbert	May, 2005	US/UK	EuroUSA	L-9168	1564-1567
96	Palmer, Levi	November, 2005	US/UK	EuroUSA	L-9986	1568-1571
97	Palmieri, Omar	August, 2005	US/UK	Econocaribe	8-618571	1572
98	Palmieri, Tom	April, 2005	US/Australia	Troy	1081970	1573-1575
99	Parker, Virginia	May, 2005	US/Japan	CaroTrans	ATLTYO0522003	1576-1577
100	Patel, Manish	February, 2005	US/India	APL	NJ2500278	1578-1596
101	Piccirilli, Jacqueline	August, 2005	US/Greece	SSL	SLI110959	1597-1603
102	Pirri, Nareg	March, 2005	US/Switzerland	EuroUSA	L-8996	1604-1608
103	Polat, Eda	July, 2005	US/Turkey	Econocaribe	8-617198	1609
104	Pouerie, Maria	November, 2005	US/Dom. Rep.	SSL	SLI111241	1610-1615
105	Pozzi, Rocio	June, 2005	US/Spain	CaroTrans	PHLMDR0523001	1616-1617
106	Rana, Eshan	August, 2005	US/Pakistan	CaroTrans	DETKAR0531001	1618-1619
107	Reid, Mathew	March, 2005	US/Dubai	CaroTrans	HOUDBI0511001	1620-1622
108	Ridgeway, Suzanne	April, 2005	US/France	EuroUSA	L-9113	1623-1627
109	Rosen, Jonathan	June, 2005	US/South Africa	SSL	SLI110694	1628-1632
110	Rupa, Das	March, 2005	US/UK	EuroUSA	L-9002	1633-1636
111	Sarasin, Dimitry	May, 2005	US/Switzerland	Knight Int'l	700/20356-00/04	1637
112	Sarma, Ratna	June, 2005	US/India	CaroTrans	CHXMUM0523001	1638-1639
113	Schaefer, Hanne	August, 2005	US/Costa Rica	SSL	SLI110982	1640-1645
114	Seerattan, Natasha	July, 2005	US/Trinidad	SSL	SLI110672	1646-1651
115	Sezan, Murat	September, 2005	US/Germany	Knight Int'l	700/21467-00/08	1652
116	Shah, Nasrin	July, 2005	US/Egypt	Econocaribe	8-616369	1653-1654
117	Sievell, Nina	August, 2005	US/Sweden	CaroTrans	BOSSTO0531001	1655-1656
118	Silva, Ricardo	August, 2005	US/Brazil	SSL	SLI110986A	1657
119	Sima, Jasna	May, 2005	US/Australia	CaroTrans	LAXSYD0521002	1658-1659
120	Simaan, Raymond	April, 2005	US/Lebanon	Troy	1081472	1660-1662
121	So, Kenneth	July, 2005	US/Philippines	CaroTrans	BOSMAN0527001	1664-1665
122	Solau, Mark	September, 2005	US/Belgium	Knight Int'l	700/21621-00/08	1666
123	Souza, David	May, 2005	US/Denmark	EuroUSA	L-9264	1667-70, 1377
124	Suarez, Fernando	February, 2005	US/Spain	Troy	1079170	1671-1674
125	Sutarwala, Shakeel	May, 2005	US/India	Troy	1082818	1675-1677
126	Svenson, Benjamin	August, 2005	US/Denmark	CaroTrans	HOUCOP0530001	1678-1679
127	Swissa, David	March, 2005	US/Qatar	Troy	1080012	1680-1682
128	Taggart, Owen	September, 2005	US/Costa Rica	CaroTrans	LAXSJS0535001	1683-1685
129	Taylor, David	March, 2005	US/UK	EuroUSA	L-8987	1686-1689
130	Taylor, Leight	November, 2005	US/Australia	EuroUSA	L-10041	1690-1693
131	Thomas, Kelly	June, 2005	US/Nicaragua	SSL	SLI110534	1694-1697
132	Tierney, Olivia	May, 2005	US/Ireland	EuroUSA	L-9232	1698-1701
133	Tsatsanig, Emmanouil	August, 2005	US/Greece	CaroTrans	SEAPIR0535001	1702-1703
134	Turk, Kaan	April, 2005	US/France	EuroUSA	L-9069	1704-1706
135	Turner, Anne	March, 2005	US/France	EuroUSA	L-8988	1707-1710
136	Turton, Susan	August, 2005	US/Trinidad	Econocaribe	9-637180	1711
137	Udoh, Charles	March, 2005	US/Nigeria	Troy	1080193	1712-1715
138	Valentine, Yvete	April, 2005	US/UAE	Troy	1081592	1716-1718

139	Valladares, Manuel	April, 2005	US/Spain	Troy	1081801	1719-1721
140	Vaughn, Houston	May, 2005	US/Germany	EuroUSA	L-9246	1722-1725
141	Velasquez, Iris	September, 2005	US/Portugal	SSL	SLI110813	1726-1738
142	Wells, Terry	April, 2005	US/UK	EuroUSA	L-9138	1739-1742
143	Wheeler, Breana	February, 2005	US/UK	EuroUSA	L-8911	1743-1760
144	White, Caroline	March, 2005	US/UK	EuroUSA	L-8997	1760-1764
145	Wildgoose, Rudiann	September, 2005	US/Bahamas	Econocaribe	8-618918	1765
146	Womack, Julia	July, 2005	US/Australia	Knight Int'l	700/20757-00/06	1766
147	Wozniak, Piotr	July, 2005	US/Poland	Carotrans	JERHAM0527014	1767-1768
148	Ye, Wei	March, 2005	US/China	Troy	1080237	1769-1772
149	Zaklikowski, Linda	April, 2005	US/Australia	SSL	SLI110167	1773-1777

(App. 19A; App. 20) (“Shipment chart”).

168. All of these shipments were made after Sharon Fachler applied for an NVOCC license in the name of MS International on June 24, 2004. (App. 11 at 1112-27; App. 2 at 12).

169. CADRS received forty complaints by shippers against Global Direct Shipping. (App. 1 at 2).

170. One shipper complained that his shipment was sent to the wrong country, that Global Direct Shipping was not answering telephone calls or emails, and that he did not have the original bill of lading so that he could make other arrangements. (App. 20 at 1393).

171. Sharon Fachler was also involved in the establishment and operation of two other NVOCCs subsequent to the commencement of this proceeding. On April 24, 2006, the Commission became aware of the existence of a company named Shippex Shipping Express (“Shippex”), which maintained a website at www.shippex.net. (App. 2 at 14).

172. The Shippex.net website indicated that Shippex has an office at 20533 Biscayne Boulevard, Suite 203, Aventura, Florida 33180. This address is a Mailboxes, Etc. store and Suite 203 is Private Mailbox #203. Private Mailbox #203 was opened on January 30, 2006, by Sharon Fachler’s brother, Arick Fachler on behalf of a company called GDL (General Distribution and Logistics) at the direction of Sharon Fachler. (App. 2 at 14).

173. GDL was incorporated on February 9, 2006, and according to GDL’s articles of incorporation, Arick Fachler is the president of GDL. According to shippers and vendors, Shippex utilized GDL as an agent for the collection and remittance of its invoices and ocean freight payments. (App. 2 at 14, *see also* App. 16 at 1168 (“billing and payments went into GDL”)).

174. In early September of 2007, due to complaints, the Commission became aware of the existence of a company named Coral Sea Shipping. Coral Sea Shipping maintained a website at www.coralseashipping.com which listed business phone numbers in the United States, France, the United Kingdom, and Canada. The website indicated that it is headquartered in Antwerp, Belgium, and has been in business since 1995. (App. 2 at 14).

175. Shippers were told that Coral Sea Shipping has an office at 757 S.E. 17th St., Suite 404, Fort Lauderdale, FL. Area Representative Andrew Margolis visited the United States address of Coral Sea Shipping which is a Mailboxes, Etc. store. Suite 404 is actually Private Mailbox #404. Staff at the Mailboxes, Etc. store indicated the mailbox was rented by Sharon Fachler's brother, Arick Fachler. (App. 2 at 15).

176. Coral Sea Shipment payments are directed to a Wachovia Bank account in the name of GDL, which was opened at the direction of Sharon Fachler. (App. 2 at 15).

III. ANALYSIS AND CONCLUSIONS OF LAW

A. Preliminary Issues

1. Jurisdiction

BOE contends that in accordance with 46 C.F.R. § 502.12, in the absence of a specific Commission rule, the capacity to be named as a respondent is governed by Federal Rule of Civil Procedure 17(b), which states that in the case of a corporation, the capacity to be named as a respondent is governed by state law. BOE states that five of the corporate respondents were established as Florida corporations, while Global Direct Shipping was not incorporated anywhere. BPFF at 3 n.6. BOE further states that under Florida law, a dissolved corporation may be sued up to three years after the date of dissolution, and that four of the corporate respondents were served with the Order of Investigation and Hearing within three years of the date of their dissolution, while one respondent, Boston Logistics, had yet to be administratively dissolved when the Order was served. BPFF at 3 n.6. BOE indicates that because Global Direct Shipping does not appear to have any capacity under state law, under Rule 17(b), it can be sued in its common name to enforce the laws of the United States, in this case, the Shipping Act. BPFF at 3 n.6.

BOE did not address the corporate status or capacity of Tradewind Consulting, although BOE did assert in its discussion of remedy that Tradewind is no longer in business. BReply at 48, 53. Tradewind was incorporated in New York in 2005. F. 106. It is not clear, however, whether Tradewind was dissolved. Pursuant to New York Corporate Business Law § 1006, even if Tradewind was dissolved, it "may sue or be sued in all courts and participate in actions and proceedings, whether judicial, administrative, arbitral or otherwise, in its corporate name, and process may be served by or upon it" and the "dissolution of a corporation shall not affect any remedy available to or against such corporation, its directors, officers or shareholders for any right or claim existing or any liability incurred before such dissolution." N.Y. Corp. Business Law § 1006(a)(4) and (b).

None of the respondents objected to jurisdiction. Accordingly, personal jurisdiction is established. Subject matter jurisdiction is met as well, as established by the merits of the claim.

2. Burden of Proof

To prevail in a proceeding brought to enforce the Shipping Act, BOE has the burden of proving by a preponderance of the evidence that the respondents violated the Act. 5 U.S.C. § 556(d) (“Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof.”); 46 C.F.R. § 502.155; *Sea-Land Serv. Inc.*, 30 S.R.R. 872, 889 (2006); *Exclusive Tug Franchises*, 29 S.R.R. 718, 718-719 (ALJ 2001). “[A]s of 1946 the ordinary meaning of burden of proof was burden of persuasion, and we understand the APA’s unadorned reference to ‘burden of proof’ to refer to the burden of persuasion.” *Dir., Office of Workers’ Comp. Programs v. Greenwich Collieries*, 512 U.S. 267, 276 (1994). The party with the burden of persuasion must prove its case by a preponderance of the evidence. *Steadman v. SEC*, 450 U.S. 91, 102 (1981). “[W]hen the evidence is evenly balanced, the [party with the burden of persuasion] must lose.” *Greenwich Collieries*, 512 U.S. at 281. It is appropriate to draw inferences from certain facts when direct evidence is not available, and circumstantial evidence alone may even be sufficient; however, such findings may not be drawn from mere speculation. *Waterman S.S. Corp. v. General Foundries Inc.*, 26 S.R.R. 1173, 1180 (ALJ 1993), adopted in relevant part, 26 S.R.R. 1424 (1994).

B. Pending Motions

Prior to addressing the merits of the claim, a pending motion to strike and motion for sanctions must be addressed.

1. Motion to Strike

On October 2, 2009, respondents Megan Karpick and Martin McKenzie jointly filed motions to strike the statements of Ronald Murphy (“Murphy statement”) and Andrew Margolis (“Margolis statement”), which had been submitted by BOE with its proposed findings of fact. Relying on the Federal Rules of Evidence, the moving respondents argue that the statements are replete with inadmissible opinion testimony, conclusory legal allegations that are unsupported by the documents referenced therein, multiple levels of inadmissible hearsay, and statements lacking proper foundation. Motion to Strike Murphy Statement at 2, Motion to Strike Margolis Statement at 2.

On October 9, 2009, BOE filed a response to the motions to strike. BOE contends that the statements meet the standards imposed by the APA, which allows for the admission of any evidence (including hearsay evidence) with the exception of evidence that is irrelevant, immaterial, unduly repetitious, or cumulative, and the Commission’s Rules of Practice and Procedure, which allow admission of all evidence which is relevant, reliable, and probative and not unduly repetitious or cumulative. BOE Response at 4.

Pursuant to the APA, “[a]ny oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.” 5 U.S.C. § 556(d). Commission Rules state that “all evidence which is relevant, material, reliable and probative, and not unduly repetitious or cumulative, shall be admissible.” 46 C.F.R.

§ 502.156; *see also Sea-Land Serv., Inc.*, 28 S.R.R. 1549, 1551 (ALJ 2000) (discussing the standard). Moreover, the “presiding officer shall . . . have the right and duty to limit the introduction of evidence . . . when in his or her judgment, such evidence . . . is cumulative or is productive of undue delay in the conduct of the hearing.” 46 C.F.R. § 502.154.

In recognition of these liberal standards of admissibility in administrative hearings, the Commission has repeatedly identified the need for considerable relaxation of the rules of evidence followed by the federal courts in proceedings before the Commission. *Pacific Champion Express Co., Ltd.*, 28 S.R.R. 1105, 1105 (ALJ 1999). “In administrative proceedings, ‘[a]n agency Administrative Law Judge (ALJ) should admit all relevant and arguably reliable evidence and then should determine the relative probative value of the admitted evidence when . . . [he] writes . . . [his] findings of fact.’” *EuroUSA Shipping, Inc., Tober Group, Inc., and Container Innovations, Inc.*, 31 S.R.R. 540, 547 (2008) (quoting Kenneth Culp Davis & Richard J. Pierce, Jr., 2 *Administrative Law Treatise* § 10.1, p.117 (3d ed. 1994)). On these grounds, hearsay evidence is admissible in agency proceedings. *National Ass’n of Recycling Indus., Inc. v. FMC*, 658 F.2d 816, 825 (D.C. Cir. 1980). Statements by Commission investigators are routinely admitted into administrative proceedings. *See, e.g., Refrigerated Container Carriers Pty. Ltd.*, 28 S.R.R. 798, 798 (ALJ 1999). Moreover, in a case addressing a similar issue, the Commission indicated that shipping documents, website printouts, affidavits, and email communications with customers were admissible. *EuroUSA Shipping*, 31 S.R.R. at 549-551.

None of the cases cited by moving respondents involves administrative litigation or application of the APA. In consideration of the comparatively liberal standards of admissibility in administrative litigation, the Murphy and Margolis statements will not be stricken. However, the objections to the statements are relevant and have been considered in determining the weight to be accorded to the statements. Accordingly, the motion to strike the Murphy statement and the motion to strike the Margolis statement are hereby **DENIED**.

2. Motion for Sanctions

Three orders in this case are relevant to the pending motion for sanctions. On October 23, 2009, a Memorandum and Order on Bureau of Enforcement’s Motion to Compel Discovery and Response to Interrogatories Directed to Moving Services, L.L.C., International Shipping Solutions, Inc., Dolphin International Shipping, Inc., Global Direct Shipping, Baruch Karpick, and Sharon Fachler and Motion for Sanctions Against Moving Services, L.L.C., International Shipping Solutions, Inc., Dolphin International Shipping, Inc., Global Direct Shipping, Baruch Karpick, and Sharon Fachler was issued. *Worldwide Relocations*, FMC No. 06-01 (ALJ Oct. 23, 2009). On October 29, 2009, a Memorandum and Order on Motion for Reconsideration of Memorandum and Order on Bureau of Enforcement’s Motion to Compel Discovery and Response to Interrogatories Directed to Moving Services, L.L.C., International Shipping Solutions, Inc., Dolphin International Shipping, Inc., Global Direct Shipping, Baruch Karpick, and Sharon Fachler and Motion for Sanctions Against Moving Services, L.L.C., International Shipping Solutions, Inc., Dolphin International Shipping, Inc., Global Direct Shipping, Baruch Karpick, and Sharon Fachler was issued. *Worldwide Relocations*,

FMC No. 06-01 (ALJ Oct. 29, 2009). On November 13, 2009, an Order Extending Time to File Proposed Findings and Responses was issued. *Worldwide Relocations*, FMC No. 06-01 (ALJ Nov. 13, 2009). The request for sanctions for failure to respond to discovery was not resolved in these discovery orders and is still pending.

BOE argues that sanctions should be imposed against respondents International Shipping Solutions, Dolphin, Baruch Karpick, Moving Services, Global Direct Shipping, and Sharon Fachler for failure to comply with the October 23, 2009, October 29, 2009, and November 13, 2009, discovery orders. BOE contends that “if a party ‘refuses to obey an order requiring such party to answer designated questions or to produce any document or other thing’, the presiding officer may ‘make such orders in regard to the refusal as are just’ including an order ‘refusing to allow the disobedient party to support or oppose designated claims or defenses or prohibiting the disobedient party from introducing designated matters in evidence.’” BReply at 8-9 (*quoting* 46 C.F.R. § 502.210(a)(2) and *citing Shipman Int’l (Taiwan) Ltd.*, 28 S.R.R. 98, 99 (ALJ 1998) and 28 S.R.R. 100, 104 (ALJ 1998)). BOE states that “Rule 210 also provides that as a sanction for violation of a discovery order, the presiding officer can enter ‘an order that with respect to matters regarding which the order was made or any other designated fact, inferences will be drawn adverse to the person or party refusing to obey such order.’” BReply at 9 (*quoting* 46 C.F.R. § 502.210(a)(2) and *citing Alabama Power Co. v. Fed. Power Comm’n*, 511 F.2d 383 (D.C. Cir. 1974); *Ever Freight Int’l Ltd.*, 28 S.R.R. 329, 335 n.4 (ALJ 1998)).

a. Moving Services, Global Direct Shipping, and Sharon Fachler

Respondents Moving Services, Global Direct Shipping, and Sharon Fachler failed to provide discovery, failed to respond to the order requiring certification of compliance with discovery, and failed to present evidence in this proceeding. BOE’s arguments in favor of imposing sanctions are compelling. Therefore, BOE’s motion for sanctions barring respondents Moving Services, Global Direct Shipping, and Sharon Fachler from contesting whether they violated sections 8 and 19 of the Shipping Act and the Commission’s corresponding regulations and from contesting whether they have the ability to pay a civil penalty is **GRANTED**.

b. International Shipping Solutions, Dolphin, and Baruch Karpick

The October 23, 2009, Order required responses to discovery and also required respondents to file a “certificate stating that they have complied with this Order” and BOE to file a “certificate stating with regard to each respondent whether [BOE] received the responses required by this Order.” October 23, 2009, Order at 5.

On November 9, 2009, Megan Karpick filed a Certificate of Compliance certifying that her responses to BOE’s first discovery request to Megan Karpick and Dolphin and to Megan Karpick and International Shipping Solutions were complete. Megan Karpick Certificate of Compliance with Discovery Requests at 1.

On November 10, 2009, BOE filed a Certificate which states, relevant to Dolphin, International Shipping Solutions, Baruch Karpick, and Megan Karpick, that BOE “certifies that it has not received the responses required by the ALJ’s October 23, 2009 Order from respondents International Shipping Solutions, Inc. or Baruch Karpick,” that “BOE certifies that it has not received the responses required by the ALJ’s October 23, 2009 Order from Respondent Dolphin International Shipping, Inc.” and that:

On November 10, 2009, BOE received a copy of a Certificate of Compliance with Discovery Requests filed by Megan K. McKenzie (formerly Karpick) with the Secretary’s office on November 9, 2009, stating that her responses to the Bureau of Enforcement’s First Discovery Request to Megan Karpick and Dolphin International Shipping, Inc. and to Megan Karpick and International Shipping Solutions, Inc. are complete to date subject to the limitations of her access to corporate documents.

BOE Certificate at 3.

BOE did not address or request action on the apparent inconsistency between its certification that they did not receive responses and Megan Karpick’s certification that responses were complete. BOE did not file any additional discovery motions or requests for sanctions against Megan Karpick, International Shipping Solutions, or Dolphin after this date. Moreover, BOE has not argued that Megan Karpick’s responses on behalf of International Shipping Solutions or Dolphin were insufficient or incomplete.

In BOE’s Proposed Findings of Fact and Conclusions of Law, BOE states that International Shipping Solutions and Dolphin did not respond to BOE’s interrogatories and requests for production of documents, indicating:

Megan Karpick as vice-president of International Shipping Solutions, Inc. and President of Dolphin International Shipping, Inc. responded in part to BOE’s interrogatories and requests for production of documents but indicated that documents for the two corporations, including shipment files, were either destroyed or in the possession of Baruch Karpick. Mr. Karpick now resides in Israel and has acknowledged service of the Order of Investigation and Hearing and BOE’s requests for discovery. Although he has verbally indicated a desire to cooperate and participate in this proceeding, has participated in several teleconferences and provided a statement to BOE, Mr. Karpick has not responded to the discovery requests pertaining to him individually or the corporation[s] as of the date of this filing. Since Baruch Karpick has not responded to BOE’s discovery requests, BOE has been unable to obtain either company’s full shipment files and was only able to obtain limited documentation from complaining shippers who agreed to provide their documents.

BPFF at 3 n.8; *see also* BReply at 2 n.1.

In its reply brief, BOE argues that respondents International Shipping Solutions, Dolphin, and Baruch Karpick have not complied with the ALJ's discovery orders. Because of the failure to respond to discovery, BOE seeks to bar these respondents from contesting whether they violated sections 8 and 19 of the Shipping Act and the Commission's corresponding regulations, and whether they have the ability to pay a civil penalty. BReply at 14.

The record indicates that Baruch Karpick failed to provide discovery, failed to respond to the order requiring certification of compliance with discovery, and failed to present evidence in this proceeding. Therefore, Baruch Karpick will be barred from presenting evidence on whether he has the ability to pay a civil penalty. And, while it would be reasonable to bar Baruch Karpick from contesting whether he violated sections 8 and 19 of the Shipping Act and the Commission's corresponding regulations, it is not reasonable to extend this prohibition to International Shipping Solutions and Dolphin.

As indicated above, the record is not clear regarding whether International Shipping Solutions and Dolphin complied with discovery. BOE indicates that they did not comply with discovery while at the same time acknowledging that Megan Karpick, International Shipping Solutions, and Dolphin filed a certificate of compliance with discovery. If BOE thought the discovery responses by International Shipping Solutions and Dolphin were insufficient or incomplete and wanted sanctions imposed on that basis, it bore the responsibility of pursuing the issue once the companies filed their certificate of compliance. To the extent that BOE finds the International Shipping Solutions and Dolphin responses incomplete because of the failure of Baruch Karpick to respond to discovery, it would not be reasonable to sanction International Shipping Solutions, Dolphin, and potentially Megan Karpick, for the inaction of Baruch Karpick. Megan Karpick, International Shipping Solutions, and Dolphin have not been given notice and opportunity to object after filing their certificate of compliance. Moreover, BOE seeks to pierce the corporate veil and hold Megan Karpick personally responsible for the actions of International Shipping Solutions and Dolphin. Given these facts, and considering that the burden of proof is on the moving party, BOE has not met its burden to show that International Shipping Solutions and Dolphin should be sanctioned for failure to comply with discovery.

For the reasons stated above, the request for sanctions against Baruch Karpick is **GRANTED** and against International Shipping Solutions and Dolphin is **DENIED**.

C. Arguments of the Parties

BOE argues that the respondents violated the Shipping Act by operating as NVOCCs without publishing tariffs showing rates and charges, without obtaining licenses from the Commission, and without providing proof of financial responsibility in the form of bonds or other appropriate sureties, and that civil penalties and cease and desist orders should be assessed against respondents. BPFF at 24-54.

Respondent Patrick Costadoni objects to findings of fact provided by BOE and argues that there is no evidence that he individually was operating as an NVOCC in violation of the Shipping Act and that he should not be held personally liable under a piercing of the corporate veil theory. CPFF at 5-7.

Respondents Megan Karpick and Martin McKenzie, in substantially similar briefs, argue that BOE's proposed findings of fact fail to contain admissible evidence of a willful violation of the Shipping Act by International Shipping Solutions, Dolphin, Megan Karpick, or Martin McKenzie; the failure of BOE to articulate any salient findings of fact renders its brief meaningless; BOE has provided no facts to warrant the assessment of civil penalties against Megan Karpick or Martin McKenzie; and the Commission is equitably estopped from enforcing the Shipping Act because the Commission was fully aware of both the identical International Shipping Solutions and Dolphin business models and never objected to their use. KPFF at 7-21; MPFF at 7-20.

BOE, in its reply brief, contends that none of the evidence submitted by BOE should be deemed inadmissible; the Commission is not equitably estopped from enforcing the Shipping Act; respondents Moving Services, Global Direct Shipping, Sharon Fachler, International Shipping Solutions, Dolphin, and Baruch Karpick should be sanctioned for failing to comply with discovery; all respondents violated the Shipping Act by operating as NVOCCs in the United States trades without obtaining licenses from the Commission, without providing proof of financial responsibility, and without publishing an electronic tariff; respondents International Shipping Solutions and Dolphin, under the control of Megan Karpick and Martin McKenzie, acted knowingly and willfully; the corporate veil should be pierced; and civil penalties and other remedies should be imposed against the respondents. BReply at 3-56.

D. Statutory Framework

The Shipping Act defines and regulates a number of different types of entities that are involved in the international shipment of goods by water, including two types of ocean transportation intermediaries. "The term 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier." 46 U.S.C. § 40102(19). "The term 'ocean freight forwarder' means a person that – (A) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and (B) processes the documentation or performs related activities incident to those shipments." 46 U.S.C. § 40102(18).

"The term 'non-vessel-operating common carrier' means a common carrier that – (A) does not operate the vessels by which the ocean transportation is provided; and (B) is a shipper in its relationship with an ocean common carrier." 46 U.S.C. § 40102(16). To be an NVOCC, the entity must meet the Shipping Act's definition of "common carrier."

The term "common carrier" – (A) means a person that – (i) holds itself out to the general public to provide transportation by water of passengers or cargo between the

United States and a foreign country for compensation; (ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and (iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

46 U.S.C. § 40102(6).

The statutory definitions are echoed in the Commission's regulations:

Ocean transportation intermediary means an ocean freight forwarder or a non-vessel-operating common carrier. For the purposes of this part, the term

- (1) *Ocean freight forwarder* means a person that –
 - (i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and
 - (ii) processes the documentation or performs related activities incident to those shipments; and
- (2) *Non-vessel-operating common carrier ("NVOCC")* means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

46 C.F.R. § 515.2(o).

Common carrier means any person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that:

- (1) Assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and
- (2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country

46 C.F.R. § 515.2(f); *Landstar Express Am., Inc. v. FMC*, 569 F.3d 493, 494-495 (D.C. Cir. 2009) (*Landstar*).

The Commission promulgated regulations providing examples of OFF services and NVOCC services performed by OTIs.

Freight forwarding services refers to the dispatching of shipments on behalf of others, in order to facilitate shipment by a common carrier, which may include, but are not limited to, the following:

- (1) Ordering cargo to port;
- (2) Preparing and/or processing export declarations;
- (3) Booking, arranging for or confirming cargo space;
- (4) Preparing or processing delivery orders or dock receipts;
- (5) Preparing and/or processing ocean bills of lading;
- (6) Preparing or processing consular documents or arranging for their certification;
- (7) Arranging for warehouse storage;
- (8) Arranging for cargo insurance;
- (9) Clearing shipments in accordance with United States Government export regulations;
- (10) Preparing and/or sending advance notifications of shipments or other documents to banks, shippers, or consignees, as required;
- (11) Handling freight or other monies advanced by shippers, or remitting or advancing freight or other monies or credit in connection with the dispatching of shipments;
- (12) Coordinating the movement of shipments from origin to vessel; and
- (13) Giving expert advice to exporters concerning letters of credit, other documents, licenses or inspections, or on problems germane to the cargoes' dispatch.

46 C.F.R. § 515.2(i).

Non-vessel-operating common carrier services refers to the provision of transportation by water of cargo between the United States and a foreign country for compensation without operating the vessels by which the transportation is provided, and may include, but are not limited to, the following:

- (1) Purchasing transportation services from a VOCC and offering such services for resale to other persons;
- (2) Payment of port-to-port or multimodal transportation charges;
- (3) Entering into affreightment agreements with underlying shippers;
- (4) Issuing bills of lading or equivalent documents;
- (5) Arranging for inland transportation and paying for inland freight charges on through transportation movements;
- (6) Paying lawful compensation to ocean freight forwarders;
- (7) Leasing containers; or
- (8) Entering into arrangements with origin or destination agents.

46 C.F.R. § 515.2(l).

Section 8 of the Shipping Act states that each common carrier “shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established.” 46 U.S.C. § 40501(a)(1). Since an NVOCC is a common carrier, it must publish tariffs. An OFF is not a common carrier; therefore, it does not publish tariffs. Accordingly, an OTI that operates as an OFF without having filed a tariff does not violate section 8; whereas if it operated as an NVOCC, it would.

Section 19(a) of the Shipping Act, applicable to OFFs and NVOCCs, requires any person acting as an OTI to hold a license issued by the Commission.

A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary’s license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

46 U.S.C. § 40901; *see also* 46 C.F.R. § 515.3.

Section 19(b) of the Shipping Act, applicable to OFFs and NVOCCs, requires a person wanting to operate as an OTI to furnish proof of financial responsibility.

A person may not act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety – (1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and (2) issued by a surety company found acceptable by the Secretary of the Treasury.

46 U.S.C. § 40902(a). An OFF “shall furnish evidence of financial responsibility in the amount of \$50,000,” 46 C.F.R. § 515.21(a)(1), and an NVOCC “shall furnish evidence of financial responsibility in the amount of \$75,000.” 46 C.F.R. § 515.21(a)(2).

The bond is to be used to satisfy any civil penalty or order of reparations and “may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities.” 46 U.S.C. § 40902(b).

Transportation-related activities which are covered by the financial responsibility obtained pursuant to this part include, to the extent involved in the foreign commerce of the United States, any activity performed by an ocean transportation intermediary that is necessary or customary in the provision of transportation services to a customer, but are not limited to the following:

- (1) For an ocean transportation intermediary operating as a [f]reight forwarder, the freight forwarding services enumerated in § 515.2(i), and
- (2) For an ocean transportation intermediary operating as a non-vessel-operating common carrier, the non-vessel-operating common carriers services enumerated in § 515.2(l).

46 C.F.R. § 515.2(w). Cases regarding OTIs, OFFs, and NVOCCs provide additional guidance.

E. Legal Analysis

An OTI may be an OFF or an NVOCC. Both OFFs and NVOCCs are involved in international transportation by water of goods for compensation, although neither operates vessels. The critical difference is that NVOCCs are common carriers, while OFFs are not common carriers, but arrange space for shipments with common carriers. 46 U.S.C. §§ 40102(6), 40102(18).

The statutes and regulations utilize traditional language to distinguish between freight forwarders and common carriers. A recent court of appeals case explains the traditional distinction:

In *Chicago, Milwaukee, St. Paul & Pac. R.R. v. Acme Fast Freight, Inc.*, 336 U.S. 465, 484 . . . (1949), the Supreme Court discussed two very different types of forwarders, namely, forwarding agent and forwarders subject to common carrier liability. The Court explained that forwarding agents merely arranged for the transportation by common carriers of shippers’ goods and charged fees for their

services, in addition to which the shipper would pay the freight charges of the carrier who actually transported the goods. Forwarding agents were liable only for their own negligence. In contrast, forwarders subject to common carrier liability picked up a shipment at the shipper's place of business and agreed to deliver it safely to its ultimate destination. This type of forwarder charged a rate covering the entire transportation, and was subject to common carrier liability for loss or damage regardless of whether it had been at fault.

Amdahl Corp. v. Profit Freight Sys., Inc., 141 F.3d 1173, 1998 WL 132976, at *1 (9th Cir. 1998) (citations omitted); *see also Status, Rights, and Obligations of Freight Forwarders*, 141 A.L.R. 919 (1942) for a summary of cases addressing the distinction.

BOE alleges that the respondents operated as NVOCCs, so that will be discussed first. To conclude that an entity operated as an NVOCC, the Shipping Act requires that the entity is a common carrier. *AEL Asia Express (H.K.) Ltd. v. Am. Bankers Ins. Co. of Florida*, 5 Fed. Appx. 106, 109 (4th Cir. 2001) (Common carriage "is the core of NVOCC status."). It is clear that "a person or entity that provides NVOCC services falls within the ambit of § 19 only when it 'holds itself out to the general public to provide transportation' and 'assumes responsibility for the transportation.'" *Landstar*, 569 F.3d at 497 (quoting 46 U.S.C. § 40102(6)(A)).

The Commission described the two primary factors, holding out and assuming responsibility, for identifying a common carrier:

As a "common carrier" is defined in the Shipping Act, an NVOCC "holds out" to the "general public to provide transportation by water" and "assumes responsibility for the transportation from the port or point of receipt to the port or point of destination." 46 U.S.C. § 1702(6). The Commission has found that no single factor of an entity's operation is determinative of its status as a common carrier. [*River Parishes Co., Inc. v. Ormet Primary Aluminum Corp.*, 28 S.R.R. 751, 763 (1999); *Activities, Tariff Filing Practices and Carrier Status of Containerships, Inc.*, 9 F.M.C. 56, 62-65 (1965) (*Containerships*)]. Rather, the Commission must evaluate the indicia of common carriage on a case-by-case basis. *Id.*

Rose Int'l, Inc. v. Overseas Moving Network Int'l, Ltd., 29 S.R.R. 119, 162 (2001).

The first factor is whether the entity "holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation." 46 U.S.C. § 40102(6)(A)(i). The Commission explained:

The most essential factor is whether the carrier holds itself out to accept cargo from whoever offers to the extent of its ability to carry, and the other relevant factors include the variety and type of cargo carried, number of shippers, type of solicitation utilized, regularity of service and port coverage, responsibility of the carrier towards

the cargo, issuance of bills of lading or other standardized contracts of carriage, and the method of establishing and charging rates.

Rose Int'l, Inc., 29 S.R.R. at 162 (citation omitted).

“The absence of solicitation does not determine that a carrier is not a common carrier.” *Transp. by Mendez & Co., Inc.*, 2 U.S.M.C. 717, 720 (1944). Holding out can also be demonstrated by a course of conduct. *Containerships*, 9 F.M.C. at 62. It is sufficient if an entity “held out, by a course of conduct, that they would accept goods from whomever offered to the extent of their ability to carry.” *Transp. by Southeastern Terminal & S.S. Co.*, 2 U.S.M.C. 795, 796-797 (1946). Moreover, “the common carrier status depends on the nature of what the carrier undertakes or holds itself out to undertake to the general public rather than on the nature of the arrangements which it may make for the performance of its undertaken duty.” *Bernhard Ulmann Co., Inc. v. Porto Rican Express Co.*, 3 F.M.B. 771, 778 (1952).

The second factor is whether the entity “assumes responsibility for the transportation from the port or point of receipt to the port or point of destination.” 46 U.S.C. § 40102(6)(A)(ii).

In [*Common Carriers by Water*, 6 F.M.B. 245, 250 (1961)], the Federal Maritime Board noted that an entity may be considered a common carrier even if it attempts to disclaim liability because liability may be imposed by operation of law. 6 F.M.B. at 256. However, “[a]ctual liability as a common carrier over the entire journey including the water portion is essential” to determine NVOCC status. *Id.* Although the Commission has not focused on this aspect of common carrier status, favoring the “holding out” analysis, it remains an essential element of the “common carrier” definition in the Shipping Act. 46 U.S.C. § 40102(6)(A)(ii).

In the Matter of the Lawfulness of Unlicensed Persons Acting as Agents for Licensed Ocean Transp. Intermediaries, 31 S.R.R. 185, 199 (2008) (Dye, dissent (favorably cited by reversing court)) (*rev'd Landstar*, 569 F.3d 493).

In contrast, an OFF “dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers” and “processes the documentation or performs related activities incident to those shipments.” 46 U.S.C. § 40102(18). Essentially, an OFF is an agent of the shipper who merely arranges for the transportation by common carriers of shippers’ goods and charges fees for their services. The Director of the Commission’s CADRS office, Ronald Murphy, explained the distinction between NVOCCs and OFFs, stating:

Both licensed and unlicensed NVOCCs operate in a different manner from an ocean freight forwarder (“OFF”). They have no fiduciary duty to the shipper and do not subject themselves to shipper control, as would a true agent of the shipper, such as an OFF. Most important, they undertake total responsibility for moving the shipment, and they control the shipment and release of the [shipment]. In contrast, OFFs owe

a fiduciary duty to shippers and are bound to keep them informed with respect to their shipment. As such, OFFs and brokers do not conceal the identity of the actual carrier during the transaction and carriers deal with both the OFF and the original shipper when necessary. The bill of lading, which is the contract of carriage, reflects the [proprietary] shipper and not the OFF as the shipper. OFFs do not issue bills of lading or other contracts of carriage.

App. 1 at 7-8.

BOE contends that the proper standard of review is the preponderance of the evidence and that the requirements of the APA can be satisfied without extensive documentation for each shipment and without annotating to each finding the evidence supporting that finding. BPFF at 27. However, to determine if an entity is a common carrier, it “is important to consider all the factors present in each case and to determine their combined effect.” *Containerships*, 9 F.M.C. at 65. The Commission has indicated that it will “look beyond documentary labels.” *Containerships*, 9 F.M.C. at 66. For example, “it is the status of the carrier, common or otherwise, that dictates the ingredients of shipping documents; it is not the documentation that determines carrier status.” *Containerships*, 9 F.M.C. at 66. To determine whether an entity meets this standard, it is necessary to examine the entity’s conduct on that shipment. *Bonding of Non-Vessel-Operating Common Carriers*, 25 S.R.R. at 1684; *see also Low Cost Shipping, Inc.*, 27 S.R.R. 686, 687 (1996) (entity found to be operating as an NVOCC on some shipments and as an OFF on other shipments). This is a fact intensive inquiry.

Whether an entity is operating as an OTI is a question of fact. Resolution of that factual question requires an examination of each entity’s conduct on a particular shipment to determine whether it operated as either an NVOCC or an OFF on that shipment. Accordingly, after explaining how the evidence was weighed, each shipment alleged will be reviewed individually.

F. Weighing the Evidence

1. Consumer Complaints

The case was initiated, at least in part, because of consumer complaints received by CADRS. Order of Investigation and Hearing at 1. While not required for violation of the Shipping Act, consumer complaints may be relevant to the penalty imposed. It does not appear that BOE contacted proprietary shippers, but rather relied on complaints documented in the files of respondents and other NVOCCs and complaints received by CADRS.

Respondent Megan Karpick objects to the statements of Ronald Murphy and Andrew Margolis regarding consumer complaints, describing the statements as “devoid of any specificity” and lacking a “valid evidentiary basis.” KPFF at 11-12. While the Murphy and Margolis statements are not so vague as to be stricken, *see* section III.B.1, *supra*, the general discussions of industry practice, as opposed to specific allegations related to a particular respondent, are given little weight as to the actions of each respondent. So, for example, there is a list of the specific number of complaints

received by CADRS for six of the seven remaining corporate respondents. App. 1 at 2. That information is specific and is credible. However, a number of paragraphs are not sufficiently specific, including the paragraph that states that “[t]ypically, by the time a shipper finds its way to CADRS, serious problems have developed” and the paragraph that begins “[m]ost of the complaints against Respondents involved the failure to pay the secondary NVOCC for its services, causing the shipment to be put on hold, and a demand of the shipper for additional payment.” App. 1 at 5-6. While indicative of general practices, these statements paint the respondents with too broad of a brush. Moreover, treating all of the respondents as having behaved in this general manner is not consistent with not identifying any complaints against one of the respondents. From reviewing the documents provided, including emails from customers, it is clear that consumers had different experiences with different respondents.

The number of consumer complaints indicated for each particular respondent in the Murphy statement does not match the number for which documents are provided. *Compare* App. 1 at 2 *with* App. 9A, App. 13A, App. 19A, App. 25A, App. 28A, App. 35A, and App. 37A. However, some consumers may have had their belongings abandoned before being shipped, creating a complaint but not a shipment. *See* F. 47. Other complaints may have been documented only by telephone calls. The Murphy statement is sufficient to indicate the number of complaints against each specific respondent, but does not provide information regarding the nature or extent of those complaints.

On the other hand, the Margolis statement lists the number of shipments by each respondent, but appears to rely on the shipping document provided by BOE. Independent review of those documents indicates slightly different numbers. More weight is given to the specific and contemporaneous shipping documents than to the conclusory statements in the Margolis affidavit.

2. Shipment Charts

Respondents Megan Karpick and Martin McKenzie object to the shipment charts provided by BOE, arguing that they are hearsay. KPFF at 10 n.6, MPFF at 9 n.5. Presumably, the objection applies equally to the supplemental shipment charts submitted by BOE on April 9, 2010, although no objections to the supplemental shipment charts were received from any of the respondents by the due date of April 27, 2010. BOE did not provide a specific basis for the admission of the charts.

Charts summarizing evidence may be admitted pursuant to Federal Rule of Evidence 611(a) or pursuant to Rule 1006. Under Rule 611(a) demonstrative evidence is admissible where it will assist in better understanding the case. *United States v. Palazzo*, No. 09-30039, 2010 WL 1141644, at *8 n.5 (5th Cir. Mar. 23, 2010). Courts are split regarding whether such demonstrative evidence should be admitted although “whether or not the chart is technically admitted into evidence, we are more concerned that the district court ensure the jury is not relying on that chart as ‘independent’ evidence but rather is taking a close look at the evidence upon which that chart is based.” *United States v. Johnson*, 54 F.3d 1150, 1159 (4th Cir. 1995) (citations omitted); *Admissibility of Summaries or Charts of Writings, Recordings, or Photographs Under Rule 1006 of Federal Rules of Evidence*,

198 A.L.R. Fed. 427 (2004). In admitting charts as demonstrative evidence in a summary judgement motion, one court stated:

The Court will only consider the charts as a supplementary aid intended to present Defendants' version of the case. The Court assures Plaintiffs that it will fully consider the underlying documents provided in the Joint Appendix and Joint Statement of Facts and parties' briefing as the basis for its final decision. To the extent that the information represented in the charts might be inconsistent with the information submitted in the Joint Appendix, the Court will disregard the information in the charts. The Court notes that decisions on summary judgment are by the Court and not by jury trial, and considers the potential for prejudice to the Plaintiffs to be minimal.

Safety Nat'l Cas. Corp. v. United States Dept. of Homeland Sec., Civil Action No. 4:5-CV-2159, 2007 WL 7131004, at *2 (S.D. Tex. Oct. 22, 2007).

In contrast, Rule 1006 allows the admission of charts into evidence instead of voluminous records that would otherwise be admissible. *United States v. Janati*, 374 F.3d 263, 273 (4th Cir. 2004). The rule states that the "contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place." Fed. R. Evid. 1006. Charts "admitted under Rule 1006 are explicitly intended to reflect the contents of the documents they summarize and typically are substitutes in evidence for the voluminous originals" whereas Rule 611(a) demonstrative charts "most typically are used as 'pedagogical devices' to 'clarify and simplify complex testimony or other information and evidence or to assist counsel in the presentation of argument to the court or jury.'" *United States v. Milkiewicz*, 470 F.3d 390, 397-398 (1st Cir. 2006) (citations omitted).

The shipment charts and supplemental shipment charts provided by BOE are admitted under Rule 611(a) to assist in organizing and reviewing the shipments, and not as independent evidence of underlying claims under Rule 1006. Although courts do not always admit Rule 611(a) demonstrative evidence, considering the relatively liberal standard for admitting evidence in administrative litigation and because the charts were relied upon in rendering the decision, they will be admitted. Had Rule 1006 served as the basis for admission, the shipment charts would be given little weight to the extent that they conflict with the actual shipping documents. *See Garcia v. Martin*, No. EP-91-CA-389-B, 1992 WL 553664 (W.D. Tex. Sept. 18, 1992).

The underlying shipping documents have been thoroughly reviewed and the charts have been edited to reflect corrections. For example, the shipper name was corrected to reflect the name listed on the bill of lading, even if that appeared to be a misspelling, although where the proprietary shipper's name could not be identified, the name listed in the consignee box was used; dates were corrected to reflect the bill of lading date, where available; typographical errors were corrected; and exhibit pages which were not Bates stamped were referenced by the preceding page and an "a." *See*,

e.g., App. 10 at 671, 817; App. 14 at 3509a; App. 20 at 1360, 1506; App. 29 at 2660; App. 36 at 2888, 2957.

Moreover, it is assumed that BOE is relying on the supplemental shipment charts because they were submitted most recently. The undersigned did not compare the original shipment charts with the supplemental shipment charts to determine why the number of shipments alleged changed. (*Compare* App. 35 (42 shipments alleged) *with* Supp. App. 35A (40 shipments alleged); App. 9 (280 shipments alleged) *with* Supp. App. 9A (282 shipments alleged); App. 28 (45 shipments alleged) *with* Supp. App. 28A (48 shipment alleged); App. 19 (164 shipments alleged) *with* Supp. App. 19A (152 shipments alleged)).

3. Other Evidence

The other evidence provided includes statements from Commission staff; copies of corporate documents and Internet advertising; bills of lading, invoices, and other shipping documents; and emails or other information provided by consumers. Respondents Megan Karpick and Martin McKenzie object to these documents as inadmissible hearsay without sufficient foundation. However, as discussed above, these documents are admissible in administrative litigation, which has a comparatively liberal standard of admissibility, although the respondents' arguments were considered in weighing the evidence.

BOE alleged a number of shipments for which there are no shipping documents. The shipment charts provided in Appendices 9A (Worldwide Relocations), 19A (Global Direct), 25A (Boston Logistics), and 28A (Tradewind Consulting) included alleged shipments for which there are "no documents." The evidence does not support finding a shipment for any of the alleged shipments which have no documents associated with them. Those shipments have been excluded from the findings of fact in this Initial Decision. There also appear to be a few shipping documents which are not identified in the shipment charts provided by BOE. (*See*, e.g., App. 20 at 1663; App. 29 at 2487-91; App. 36 at 2953). They have not been added as shipments as they were not identified by BOE in the supplemental appendix and respondents did not have an opportunity to respond to them.

BOE did not present specific findings of fact stating that the respondents did not operate the vessels by which the ocean transportation is provided. However, they did present specific facts that the corporate respondents operated companies that worked out of various homes, office buildings, and post office boxes. Respondents utilized NVOCCs for all of the shipments alleged, as shown in the shipment charts, and so the totality of the evidence is sufficient to find that for all of the respondents, they did not operate the vessels by which the ocean transportation was provided. Other discrepancies in the evidence are noted below as the evidence regarding each respondent is discussed.

G. Respondents

1. International Shipping Solutions

International Shipping Solutions violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

a. International Shipping Solutions operated as a common carrier

i. International Shipping Solutions held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

International Shipping Solutions provided international shipping services to its customers, primarily individuals moving households goods, personal effects, and vehicles from the United States to a foreign country. F. 22. International Shipping Solutions maintained an Internet website that advertised the company as providing international relocations services. F. 21. International Shipping Solutions collected payments directly from shippers and then paid licensed NVOCCs for the shipment. F. 25. As indicated by the shipment chart, the course of conduct included accepting shipments from different individual proprietary shippers for transportation by water from the United States to a foreign country. F. 26. The name "International Shipping Solutions" also implies that the company provides international shipping services. Thus, the evidence demonstrates that International Shipping Solutions held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. International Shipping Solutions assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that International Shipping Solutions assumed responsibility for forty shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 26.

International Shipping Solutions booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 23. These licensed, secondary NVOCCs issued bills of lading to International Shipping Solutions primarily identifying the shipper/exporter as International

Shipping Solutions as agent for the proprietary shipper, although bills of lading were also issued identifying International Shipping Solutions c/o the proprietary shipper, and listing the proprietary shipper c/o International Shipping Solutions, but with International Shipping Solutions's address. F. 23. For two of the International Shipping Solutions shipments, the booking confirmations are addressed to Globe Movers while the invoices and bills of lading are addressed to International Shipping Solutions. F. 24. International Shipping Solutions collected payments directly from shippers and then paid the secondary NVOCCs for the shipment. F. 25.

Accordingly, the evidence establishes that International Shipping Solutions assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. International Shipping Solutions used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F. 26. Therefore, BOE has proven by a preponderance of the evidence that International Shipping Solutions used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. International Shipping Solutions operated as an NVOCC

International Shipping Solutions was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. International Shipping Solutions was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 26. Therefore, International Shipping Solutions operated as an NVOCC. 46 U.S.C. § 40102(16).

c. International Shipping Solutions did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

International Shipping Solutions did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on forty shipments, International Shipping Solutions violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

d. Equitable Estoppel

Both Megan Karpick and Martin McKenzie argue that BOE is equitably estopped from enforcing the Shipping Act against them because the Commission was fully aware of the business model being utilized and never objected to its use. KPFF at 16. The argument relies on the sworn testimony of Megan Karpick, the former vice president of Dolphin, who states that she had numerous communications with Commission staff regarding shipment status, the formation of International Shipping Solutions and Dolphin, the on-going resolution of open issues, the websites of Dolphin and International Shipping Solutions, the efforts to bring in outside investors and professional management for Dolphin, and internal management issues. F. 17. In fact, Megan Karpick specifically alleges that she showed Andrew Margolis, the Commission's area representative, the consultancy business model that she intended to use for International Shipping Solutions. F. 13. Megan Karpick states that she was never personally asked for any OTI or NVOCC number from any NVOCC accepting shipments from International Shipping Solutions or Dolphin and was never refused a booking. F. 20. Megan Karpick indicates that she was never advised by the Commission staff that International Shipping Solutions or Dolphin was in violation of the Shipping Act. F. 14. Megan Karpick argues that her reliance on the "conduct and implicit assent to the consultancy business model" was reasonable and fully justifiable as International Shipping Solutions and Dolphin had no notice of non-compliance with the Shipping Act. KPFF at 19-20.

BOE contends that the Commission is not equitably estopped from enforcing the Shipping Act against International Shipping Solutions and Dolphin because the Commission did not evaluate the business model being utilized and because Megan Karpick has not met the test for the assertion of estoppel against the government. BReply at 5-8. Commission staff Joseph Farrell and Andrew Margolis indicate that the Commission's contact with International Shipping Solutions and Dolphin was to resolve consumer complaints, not to evaluate the operations. BReply at 6; F. 16. In fact, Andrew Margolis states that when he attempted to discuss the need for a Commission license with Megan Karpick, she referred him to an attorney who never returned his telephone calls. F. 11. Moreover, BOE argues that International Shipping Solutions and Dolphin have not met the legal standard for asserting estoppel. BReply at 6-7.

Estoppel is an affirmative defense and the burden of proof is on the party claiming estoppel. Fed. R. Civ. P. 8(c)(1); *U.S. v. Asmar*, 827 F.2d 907, 912 (3d Cir. 1987). The elements of equitable estoppel under federal common law are: (1) the party to be estopped misrepresented material facts; (2) the party to be estopped was aware of the true facts; (3) the party to be estopped intended that the misrepresentation be acted on or had reason to believe the party asserting the estoppel would rely on it; (4) the party asserting the estoppel did not know, nor should it have known, the true facts; and (5) the party asserting the estoppel reasonably and detrimentally relied on the misrepresentation. *Busby v. JRHBW Realty, Inc.*, 513 F.3d 1314, 1326 (11th Cir. 2008); *see also Peacock v. United States*, 597 F.3d 654, 661 n.3 (5th Cir. 2010).

The Supreme Court has said that equitable estoppel will not lie against the government as it lies against private litigants and has pointed out that it has reversed every finding of estoppel against

the government that it has reviewed. *Office of Personnel Mgmt. v. Richmond*, 496 U.S. 414, 419-422 (1990). Indeed, the weight of authority holds that establishing estoppel by a private party against the government requires a showing of affirmative misconduct. *Peacock*, 597 F.3d at 661; *Michigan Exp., Inc. v. United States*, 374 F.3d 424, 427 (6th Cir. 2004); *Yang v. INS*, 574 F.2d 171, 175 (3d Cir. 1978).

The Commission explained:

In short, the Commission's staff is not the Commission and regulated parties must be careful not to rely totally on informal staff advice, if such occurred, or even staff inaction, which in the last analysis cannot invalidate statutory requirements. See, e.g., *United States v. American Union Transport*, 327 U.S. 437 (1946) (almost 30 years of staff inactivity does not mean that the Commission has no statutory jurisdiction over independent ocean freight forwarders); *Rejection of Tariff Filings of Sea-Land Service, Inc.*, 13 FMC 200 (1970) (staff rejection of tariff filing found to be improper and reversed by the Commission on appeal)[.]

Possible Unfiled Agreement among A.P. Moller-Maersk Line, P&O Nedlloyd Ltd. & Sea-Land Serv., Inc., 28 S.R.R. 389, 401 (1998).

The evidence *sub judice* consists primarily of competing statements; in terms of contemporaneous documents, there is only one e-mail provided. That May, 2004, email makes clear that the parties communicated primarily about consumer complaints. F. 18. Megan Karpick contends that BOE's statements were prepared in anticipation of litigation. KPFF at 8-9. However, her affidavit was similarly prepared in anticipation of litigation, and she has a more direct personal interest, so this does not weigh in her favor. Andrew Margolis's claim that his communication with International Shipping Solutions and Dolphin focused on resolving a consumer complaint is credible and consistent with the evidence. Even if Megan Karpick mentioned the business model, the evidence does not support her assertion that the Commission provided a formal opinion as to its legality. Even if the Commission had given such an opinion, that opinion would not have been binding. Therefore, International Shipping Solutions and Dolphin have not proven the affirmative defense of equitable estoppel.

2. Dolphin International Shipping

Dolphin violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

a. Dolphin operated as a common carrier

i. Dolphin held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

Dolphin provided international shipping services to its customers, primarily individuals moving households goods and personal effects from the United States to a foreign country. F. 41. Dolphin maintained an Internet website that advertised the company as providing international relocations services. F. 39. Megan Karpick wrote the content for the website. F. 39. Dolphin sent emails to customers offering “custom made door to door service” and full destination services including “customs clearance at destination, in-house delivery to residence, unpacking, setting up of furniture and removal of debris at time of delivery.” F. 40. As indicated by the shipment chart, the course of conduct included accepting shipments from different individual proprietary shippers for transportation by water from the United States to a foreign country. F. 44. The name “Dolphin International Shipping” also implies that the company provides international shipping services. Thus, the evidence demonstrates that Dolphin held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. Dolphin assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that Dolphin assumed responsibility for ten shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 44.

Dolphin prepared shipping instructions for the shipments. F. 42. Most shippers paid Dolphin directly, usually by wire transfers, checks, or on-line payment systems. F. 42. Dolphin booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 43. These licensed, secondary NVOCCs issued bills of lading to Dolphin primarily identifying the shipper/exporter as Dolphin, but also identifying the proprietary shipper c/o Dolphin and identifying Dolphin as agent for the proprietary shipper, generally with Dolphin’s address. F. 43. Customers were often not aware of where their goods were during the shipment, as demonstrated by the shipments that were only partially delivered, shipments that were still in warehouses, and bookings that had not been made, and the proprietary shipper who stated that it “has been over 10 weeks since the household[] goods were picked up and I have no information from you or anyone in your company.” F. 47, F. 48.

Accordingly, the evidence establishes that Dolphin assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. Dolphin used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F. 44. Therefore, BOE has proven by a preponderance of the evidence that Dolphin used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. Dolphin operated as an NVOCC

Dolphin was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. Dolphin was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 44. Therefore, Dolphin operated as an NVOCC. 46 U.S.C. § 40102(16).

c. Dolphin did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

Dolphin did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on ten shipments, Dolphin violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

3. Worldwide Relocations

Worldwide Relocations violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

a. Worldwide Relocations operated as a common carrier

i. Worldwide Relocations held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

Worldwide Relocations provided international shipping services to its customers, primarily individuals moving households goods, personal effects, and vehicles from the United States to a foreign country. F. 67. Worldwide Relocations maintained an Internet website that advertised the company as providing international relocations services. F. 61. Worldwide Relocations's website advertised that "[b]y working in tandem with our domestic moving agents as well as our international agents we are able to govern your services from origin to destination." F. 63. The Internet advertising explained that "an international moving company is responsible for packing/loading/receiving your shipment, receiving your payment, and promptly booking the services of all companies necessary to fulfill their obligation." F. 64. A review of Worldwide Relocations's Internet advertising in November of 2004, showed Worldwide Relocations advertised itself as "an international moving company" offering port to port, port to door, door to port, and door to door services. F. 62. A reasonable consumer selecting Worldwide Relocations on the basis of the totality of its advertising would expect Worldwide Relocations to remain responsible for the shipment from origin to destination, as specifically advertised.

Worldwide Relocations offered services in its own name. F. 65. The proprietary shippers hired Worldwide Relocations to transport their goods from point A to point B. F. 65. Moreover, as indicated by the shipment chart, the course of conduct included accepting shipments from different individual proprietary shippers for transportation by water from the United States to a foreign country. F. 76. The name "Worldwide Relocations" also implies that the company provides international shipping services. Thus, the evidence demonstrates that Worldwide Relocations held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. Worldwide Relocations assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that Worldwide Relocations assumed responsibility for two hundred seventy-eight shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 76.

Worldwide Relocations paid port to port or multimodal transportation charges; entered into affreightment agreements with underlying shippers; arranged for inland transportation; and paid for

inland freight charges on through transportation movements. F. 66. Worldwide Relocations agreed to provide transportation to a foreign destination and issued invoices charging customers a different amount (generally more) than Worldwide Relocations was charged by the secondary NVOCC. F. 68. Worldwide Relocations's shipment files also show Worldwide Relocations arranged for inland transportation when necessary to complete the shipment and provided marine insurance and other services for its customers. F. 69. Worldwide Relocations booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 70. These licensed, secondary NVOCCs issued bills of lading to Worldwide Relocations identifying the shipper/exporter as Worldwide Relocations, identifying the proprietary shipper c/o Worldwide Relocations, or identifying the proprietary shipper with Worldwide Relocations's address. F. 70.

Worldwide Relocations's customers did not have direct contact with the secondary NVOCC. F. 71. Patrick Costadoni, who ran Worldwide Relocations, agreed that the shipper looked to Worldwide Relocations for provision of services. F. 71. Patrick Costadoni agreed with the description of Worldwide Relocations as the carrier in relation to its customers and the shipper in relation to the secondary NVOCCs and stated that Worldwide Relocations's customers would receive a copy of the bill of lading once the invoice had been paid. F. 72, F. 73. As an example, one customer stated that he was charged an additional \$2,740 after his belongings were picked up and was "told 'you aren't getting a bill of lading until you pay the balance due on this invoice'" and that Worldwide Relocations refused to tell him where his belongings were located. F. 74. If Worldwide Relocations failed to pay the secondary NVOCC for the ocean freight, the secondary NVOCC often would refuse to initially deal or provide information to Worldwide Relocations's customer without a release from Worldwide Relocations. F. 75.

For four alleged shipments in appendix 9A, there is not sufficient evidence to find that Worldwide Logistics assumed responsibility for the shipments. Because the shipping documents cannot be identified, it is not clear when or if these shipments were made. Accordingly, there is insufficient evidence concerning these shipments to find a violation by Worldwide Relocations.

Accordingly, the evidence establishes that Worldwide Relocations assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. Worldwide Relocations used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F. 76. Therefore, BOE has proven by a preponderance of the evidence that Worldwide Relocations used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. Worldwide Relocations operated as an NVOCC

Worldwide Relocations was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. Worldwide Relocations was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 76. Therefore, Worldwide Relocations operated as an NVOCC. 46 U.S.C. § 40102(16).

c. Worldwide Relocations did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

Worldwide Relocations did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on two hundred seventy-eight shipments, Worldwide Relocations violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

4. Boston Logistics

Boston Logistics violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

a. Boston Logistics operated as a common carrier

i. Boston Logistics held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

Boston Logistics provided international shipping services to its customers, primarily individuals moving households goods, personal effects, and vehicles from the United States to a foreign country. F. 99. Boston Logistics maintained an Internet website and solicited business through its website and other Internet portal sites and also paid third parties for sales leads. F. 90. Boston Logistics advertised on the Internet that it would "assist you all the way through your move." F. 91. Boston Logistics's Internet advertising, in September of 2005, offered comprehensive shipping services including door to door, door to port, port to door, and port to port, as well as less than container load, full container load, and auto shipping. F. 92. Boston Logistics stated that it provided "the best tracking and shipment updates in the industry" and that shipments contained "your goods and you have [the] right to know where they are at any given time." F. 93. Boston Logistics offered

insurance which would cover belongings “from time of pick up, on the ocean, and delivery into your residence at your final destination.” F. 94. Shippers were given estimates which included items such as: loading and unloading, disassembling/reassembling furniture, and full destination service which included delivery into the residence, unpacking, and full clean up. F.95. A reasonable consumer selecting Boston Logistics on the basis of the totality of its advertising would expect Boston Logistics to remain responsible for the shipment from pickup to delivery into residence, as specifically advertised.

Boston Logistics offered services in its own name. F. 90. The proprietary shippers hired Boston Logistics to transport their goods from point A to point B. F. 91. Moreover, as indicated by the shipment chart, the course of conduct included accepting shipments from different individual proprietary shippers for transportation by water from the United States to a foreign country. F. 101. Thus, the evidence demonstrates that International Shipping Solutions held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. Boston Logistics assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that Boston Logistics assumed responsibility for ten shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 101.

Boston Logistics paid port to port or multimodal transportation charges, entered into affreightment agreements with underlying shippers, arranged for inland transportation, and paid for inland freight charges on through transportation movements. F. 96. Boston Logistics profited by charging the proprietary shipper a figure more than the actual ocean freight charged by the servicing NVOCC and by marking up the other services they provided including other multimodal transportation, packing, and insurance charges. F. 97. Boston Logistics invoiced the shipper for the shipment, generally requiring payment in full in advance, usually via an electronic deposit, check-by-phone, or credit card. F. 98. Boston Logistics booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 100. These licensed, secondary NVOCCs issued bills of lading to Boston Logistics identifying the shipper/exporter as Boston Logistics, identifying the proprietary shipper c/o Boston Logistics, or identifying the proprietary shipper with the shipper’s address. F. 100.

For two alleged shipments, there is not sufficient evidence to find that Boston Logistics assumed responsibility for the shipment. First, in appendix 25A, BOE lists a shipment for which there are no identified shipping documents. Because the shipping documents cannot be identified,

it is not clear when or if this shipment was made. Accordingly, there is insufficient evidence concerning this shipment to find a violation by Boston Logistics.

Second, there is an August 31, 2005, unsigned personal money order to Carotrans International, which appears to be payment for the Yoseph Dahan shipment. This money order has the name "Tradewinds Logistics Inc." printed by hand on it. F. 105. This is listed by BOE in both the Boston Logistics and Tradewind shipment charts. App. 25A, 28A. The address on the personal money order is Owego, NY and the other paperwork for that shipment has the Tradewind Consulting name and address on the letterhead. F. 105. Therefore, it appears that this is a Tradewind Consulting shipment and it has been removed from the list of Boston Logistics shipments.

Accordingly, the evidence establishes that Boston Logistics assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. Boston Logistics used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F. 101. Therefore, BOE has proven by a preponderance of the evidence that Boston Logistics used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. Boston Logistics operated as an NVOCC

Boston Logistics was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. Boston Logistics was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 101. Therefore, Boston Logistics operated as an NVOCC. 46 U.S.C. § 40102(16).

c. Boston Logistics did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

Boston Logistics did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on ten shipments, Boston Logistics violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

5. Tradewind Consulting

Tradewind violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

a. Tradewind operated as a common carrier

i. Tradewind held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

Tradewind provided international shipping services to its customers, primarily individuals moving households goods, personal effects, and vehicles from the United States to a foreign country. F. 118. Tradewind maintained an Internet website, solicited business through its website, and also paid third parties for sales leads. F. 112. Tradewind's Internet advertising offered "high quality shipping services at competitive prices" and promised to "use[] its global network of agents to expedite your belongings [to] their destination." F. 113. Tradewind offered a full range of services including: air and ocean freight shipments; full packing and loading services, customized to your need; diligent and knowledgeable customer service; and delivery to your door in almost every country. F. 113. This advertising appears to be holding out NVOCC services.

However, Tradewind's Internet advertising also stated that:

We are not classified as an international shipping company. Instead, we prefer to think of ourselves as personalized travel consultants. Tradewind Consulting organizes your services, negotiates with vendors and books your move with licensed moving, shipping and delivery agents worldwide. We rely on them to produce the necessary documentation and to comply with all federal regulations regarding your shipment. Unlike other shipping companies, you are in complete control of your shipment every step of the way.

F. 114.

This language is an attempt by Lucy Norry to provide the same service as Worldwide Relocations and Boston Logistics while avoiding the Shipping Act requirements. In *Containerships*, the Commission held that "a carrier's status is determined by the nature of its service offered to the public and not upon its own declarations. A close look at its activities is necessary." *Containerships*, 9 F.M.C. at 64. Just as a "common carrier [does not] lose that status if he uses shipping contracts other than bills of lading or even if he attempts to disclaim liability for the cargo by express

exemptions in the bills of lading or other contracts of affreightment,” *Containerships*, 9 F.M.C. at 64, an attempt to disclaim liability by express exemption in advertising will not be controlling.

Tradewind offered services in its own name. F. 115. The proprietary shippers hired Tradewind to transport their goods from point A to point B. F. 115. Moreover, as indicated by the shipment chart, the course of conduct included accepting shipments from different individual proprietary shippers for transportation by water from the United States to a foreign country. F. 120.

Ultimately, a reasonable consumer selecting Tradewind on the basis of the totality of its advertising would expect Tradewind to remain responsible for the shipment from pickup to delivery, as specifically advertised. Thus, the evidence demonstrates that Worldwide Relocations held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. Tradewind assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that Tradewind assumed responsibility for thirty-seven shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 120.

Tradewind paid port to port or multimodal transportation charges; entered into affreightment agreements with underlying shippers; arranged for inland transportation; and paid for inland freight charges on through transportation movements. F. 116. Documents from Tradewind’s shipment files show Tradewind contacted various NVOCCs to obtain a quote for a shipment, issued quotes to its customers promising to provide transportation to a foreign destination, and issued invoices charging its customers a different amount (generally more) than it was charged by the secondary NVOCC. F. 117. Tradewind booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 119. These licensed, secondary NVOCCs issued bills of lading to Tradewind identifying the shipper/exporter as Tradewind Consulting, identifying the proprietary shipper c/o Tradewind, or identifying the proprietary shipper only. F. 119.

For eleven alleged shipments in appendix 28A, there is not sufficient evidence to find that Tradewind assumed responsibility for the shipment. Because the shipping documents cannot be identified, it is not clear when or if these shipments were made. Accordingly, there is insufficient evidence concerning these shipments to find a violation by Tradewind.

Accordingly, the evidence establishes that Tradewind assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. Tradewind used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F. 120. Therefore, BOE has proven by a preponderance of the evidence that Tradewind used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. Tradewind operated as an NVOCC

Tradewind was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. Tradewind was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 120. Therefore, Tradewind operated as an NVOCC. 46 U.S.C. § 40102(16).

c. Tradewind did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

Tradewind did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on thirty-seven shipments, Tradewind violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

6. Moving Services

Moving Services violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

Moving Services did not participate in these proceedings. Its failure to respond to discovery limited the information available for BOE to present. Moreover, Moving Services has provided no evidence to rebut BOE's allegations and no basis on which to find in its favor. Given these

circumstances, the evidence is sufficient to find a violation. *Capitol Transp., Inc. v. United States*, 612 F.2d 1312, 1319 (1st Cir. 1979).

a. Moving Services operated as a common carrier

i. Moving Services held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

Moving Services provided international shipping services to its customers, primarily individuals moving households goods, personal effects, and vehicles from the United States to a foreign country. F. 137. Moving Services maintained an Internet website and solicited business through this website and other Internet portal sites. F. 133. Moving Services also paid third parties for sales leads. F. 133. Moreover, as indicated by the shipment chart, the course of conduct included accepting shipments from different individual proprietary shippers for transportation by water from the United States to a foreign country. F. 140. The name “Moving Services” also implies that the company provides shipping services. These facts combined with the lack of opposing evidence and the discovery sanctions demonstrate that Moving Services held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. Moving Services assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that Moving Services assumed responsibility for one hundred twenty-five shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 140.

Moving Services paid port to port or multimodal transportation charges, entered into affreightment agreements with underlying shippers, arranged for inland transportation, and paid for inland freight charges on through transportation movements. F. 134. Moving Services provided door to door or door to port quotes and required payment in advance, usually via an electronic deposit or check by phone. F. 135. The quote would include all services including ocean freight, marine insurance, port fees, line haul charges, and export/import documentation fees. F. 135. After issuing an invoice to its customer and receiving payment in full, Moving Services would book the cargo with one of several licensed NVOCCs and would arrange for movers to pick up the goods. F. 136. The secondary NVOCC would look to Moving Services and not the proprietary shipper for payment of the invoiced amount. F. 136.

Moving Services booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 138. These licensed, secondary NVOCCs issued bills of lading to Moving Services primarily identifying the shipper/exporter name and address as Moving Services. F. 138. For other shipments, the bills of lading were issued to Moving Services identifying the shipper/exporter as the proprietary shipper c/o Moving Services, identifying the proprietary shipper's name with Moving Services's address, or identifying Moving Services as agent for the proprietary shipper. F. 138. Records from some NVOCCs show that Moving Services occasionally asked the secondary NVOCC to hold a shipment. F. 139.

Accordingly, the evidence establishes that Moving Services assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. Moving Services used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F. 140. Therefore, BOE has proven by a preponderance of the evidence that Moving Services used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. Moving Services operated as an NVOCC

Moving Services was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. Moving Services was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 140. Therefore, Moving Services operated as an NVOCC. 46 U.S.C. § 40102(16).

c. Moving Services did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

Moving Services did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on one hundred twenty-five shipments, Moving Services violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

7. Global Direct Shipping

Global Direct Shipping violated section 8 of the Shipping Act (46 U.S.C. § 40501) and the Commission's regulations at 46 C.F.R. part 520 by operating as an NVOCC without publishing tariffs and violated section 19 of the Act (46 U.S.C. §§ 40901, 40902) and the Commission's regulations at 46 C.F.R. part 515 by operating as an OTI without holding a license issued by the Commission, and without furnishing a bond, proof of insurance, or other surety.

Global Direct Shipping did not participate in these proceedings. Its failure to respond to discovery limited the information available for BOE to present. Moreover, Global Direct Shipping has provided no evidence to rebut BOE's allegations and no basis on which to find in its favor. Given these circumstances, the evidence is sufficient to find a violation. *Capitol Transp. Inc.*, 612 F.2d at 1319.

It is noted that BOE did not submit a copy of its request for admissions directed to Global Direct Shipping in its appendix of exhibits, but rather submitted two copies of the request for admission directed to Moving Services, although it appears from the table of contents that it may have intended to do so.

a. Global Direct Shipping operated as a common carrier

i. Global Direct Shipping held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation

Global Direct Shipping provided international shipping services to its customers, primarily individuals moving households goods, personal effects, and vehicles from the United States to a foreign country. F. 164. Global Direct Shipping maintained an Internet website that advertised the company as providing international relocation services. F.159. A review of Global Direct Shipping's website in December of 2005 showed that Global Direct Shipping offered door to door and door to port shipping and stated: "GDS provides shipment internationally from origin to destination." F. 160. Global Direct Shipping advertised that the "global network GDS has in its roster ensures that services are exceptional yet competitively priced. Through our detailed [k]nowledge of the international regulations, we offer safe, reliable and timely shipment to any city in the [w]orld." F. 161. Global Direct Shipping also offered freight forwarding and advertised special services for last minutes moves, car or motorcycle shipping, and arts and antiques shipping. F. 162. An emailed freight proposal from Global Direct Shipping dated June 13, 2005, stated: "[o]ur services include air and ocean shipment, full container load (FCL), less than container load (LCL), PO/PO, and consolidated shipments. Global Direct Shipping's agents are bonded, insured and licensed by the US Federal Maritime Commission (FMC)." F. 163.

Global Direct Shipping offered services in its own name. F. 162. Moreover, as indicated by the shipment chart, the course of conduct included accepting shipments from different individual

proprietary shippers for transportation by water from the United States to a foreign country. F. 167. The name "Global Direct Shipping" also implies that the company provides international shipping services. Thus, the evidence demonstrates that Global Direct Shipping held out to the general public that it provided transportation by water of cargo between the United States and a foreign country for compensation. 46 U.S.C. § 40102(6)(A)(i).

ii. Global Direct Shipping assumed responsibility for the transportation from the port or point of receipt to the port or point of destination

Shipping documents such as bills of lading and invoices demonstrate that Global Direct Shipping assumed responsibility for one hundred forty-nine shipments transported by water from a United States port to a foreign port. The shipment chart shows the proprietary shipper or consignee identified with the shipment, the bill of lading or shipment date, the origin and destination countries, the secondary NVOCC utilized for the shipment, the bill of lading number, and the Bates number of the evidence supporting each shipment. F. 167.

Global Direct Shipping invoiced the shipper for the shipment, generally requiring payment in full within forty-eight hours, usually via an electronic deposit, check by phone, or credit card. F. 165. Global Direct Shipping booked the cargo with licensed NVOCCs for either door to door, door to port, or port to port service. F. 166. These licensed, secondary NVOCCs issued bills of lading to Global Direct Shipping identifying the shipper/exporter as Global Direct Shipping, identifying the proprietary shipper c/o Global Direct Shipping, identifying the proprietary shipper with Global Direct Shipping's address, or identifying the proprietary shipper's name and address. F. 166.

For three alleged shipments in appendix 19A, there is not sufficient evidence to find that Global Direct Shipping assumed responsibility for the shipments. Because the shipping documents cannot be identified, it is not clear when or if these shipments were made. Accordingly, there is insufficient evidence concerning these shipments to find a violation by Global Direct Shipping.

Accordingly, the evidence establishes that Global Direct Shipping assumed responsibility for the transportation from the port or point of receipt to the port or point of destination. 46 U.S.C. § 40102(6)(A)(ii).

iii. Global Direct Shipping used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country

The evidence establishes that each shipment was loaded on board a vessel in the United States and discharged in a foreign port. The shipment chart lists the origin and destination countries for each shipment. F.167. Therefore, BOE has proven by a preponderance of the evidence that Global Direct Shipping used, for all or part of that transportation, a vessel operating on the high seas between a port in the United States and a port in a foreign country. 46 U.S.C. § 40102(6)(A)(iii).

b. Global Direct Shipping operated as an NVOCC

Global Direct Shipping was a common carrier that did not operate the vessels by which the ocean transportation was provided and was a shipper in its relationship with an ocean common carrier. Global Direct Shipping was the shipper in relation to the secondary NVOCCs utilized for all of the shipments established by the evidence and listed in the shipment chart. F. 167. Therefore, Global Direct Shipping operated as an NVOCC. 46 U.S.C. § 40102(16).

c. Global Direct Shipping did not publish a tariff, did not have an OTI license, and did not furnish proof of financial responsibility

Global Direct Shipping did not publish a tariff pursuant to section 8 of the Shipping Act, did not obtain an OTI license from the Commission pursuant to section 19(a) of the Act, and did not furnish proof of financial responsibility pursuant to section 19(b) of the Act. F. 2. Accordingly, on one hundred forty-nine shipments, Global Direct Shipping violated the Shipping Act by operating as an NVOCC that did not have a tariff as required by section 40501 of the Act, a license as required by section 40901 of the Act, and a bond, insurance, or other surety as required by section 40902 of the Act. 46 U.S.C. §§ 40501, 40901, 40902.

8. Conclusion

Although the business models and operations varied, the respondents all advertised themselves, primarily over the Internet, as international moving companies specializing in moving household goods and personal effects. Some of the respondents advertised themselves as moving consultants or coordinators, but they each advertised in their own name. Each respondent offered door to door shipping and charged one fee for the entire shipment. Each respondent hired licensed, secondary NVOCCs to ship the goods and each respondent maintained control over the shipment through delivery at destination.

Respondent Patrick Costadoni discussed the business model, explaining that he recommended that Tradewind book moves and have the secondary NVOCC invoice the customers directly and just collect the commission. When asked what value Tradewind would add to that transaction, he stated “[b]ecause they would tell the [secondary NVOCC], as far as I know, see that’s something I don’t know and I think that that was flawed in my respect, is that you should be able to dictate exactly what the due agent fee [or commission] would be on a bill of lading.” F. 124.

Jennifer Greco, who was listed as president, secretary, and treasurer of BPS, explained her understanding of Sharon Fachler’s businesses:

I was told that they were a moving company. I said, “What do you mean? What kind of stuff are they moving?” He said, no when we need somebody to move furniture from here to there, they help like contract people, like get other people to move other

people; like they are the main part and they get other people to move other people's things. It didn't make much sense to me.

F. 151-52.

Indeed, it does not seem that this business model would be profitable if proprietary shippers retained control of the shipment. For example, if the proprietary shippers paid the secondary NVOCCs directly, they would know the cost and identity of the secondary NVOCC, as well as the commission being charged by the respondents. In that case, customers may well have chosen to work directly with the secondary NVOCC rather than with the respondents. For respondents' business models to be successful, they needed to retain control of the shipment through delivery at destination.

H. Remedy

BOE requested that civil penalties be imposed against the corporate respondents and requested that the corporate veil be pierced so that the individual respondents would be responsible for the civil penalties assessed against the corporate respondents that they controlled. BReply at 34. BOE also sought cease and desist orders against all of the respondents. Each request is addressed in turn.

1. Civil Penalties

a. Statutory and Regulatory Considerations.

Section 13(a) of the Shipping Act provides for civil penalties for violations of the Shipping Act, stating:

A person that violates this part or a regulation or order of the . . . Commission issued under this part is liable to the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed [\$6,000] for each violation or, if the violation was willfully and knowingly committed, [\$30,000] for each violation.

46 U.S.C. § 41107(a).¹⁵

Section 13(c) of the Act provides that in "determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability

¹⁵ The Act originally provided for maximums of \$5,000 and \$25,000. In 2000, before respondents committed these violations, the Commission increased these amounts to \$6,000 and \$30,000. 65 Fed. Reg. 49741, 49742 (Aug. 15, 2000) (codified at 46 C.F.R. § 506.4(d) (Table) (2006)). Subsequent to these proceedings, the amounts have again been increased to \$8,000 and \$40,000. 74 Fed. Reg. 38114, 38115 (July 31, 2009) (codified at 46 C.F.R. § 506.4(d) (Table) (2009))

to pay, and other matters justice may require.” 46 U.S.C. § 41109(b). These factors have been codified in the regulations which state:

In determining the amount of any penalties assessed, the Commission shall take into account the nature, circumstances, extent and gravity of the violation committed and the policies for deterrence and future compliance with the Commission’s rules and regulations and the applicable statutes. The Commission shall also consider the respondent’s degree of culpability, history of prior offenses, ability to pay and such other matters as justice requires.

46 C.F.R. § 502.603(b).

Civil penalties are punitive in nature. The main Congressional purpose of imposing civil penalties is to deter future violations of the Shipping Act. *Stallion Cargo, Inc.*, 29 S.R.R. 665, 681 (2001); *Refrigerated Container Carriers Pty. Ltd.*, 28 S.R.R. 799, 805 (ALJ 1999).

To determine a specific amount of civil penalty is a most challenging responsibility. The matter is one for the exercise of sound discretion, essentially requires the weighing and balancing of eight factors set forth in law, and is ultimately subjective and not one governed by science. As was stated in *Cari-Cargo, Int., Inc.*, 23 SRR 1007, 1018 (I.D., F.M.C. administratively final, 1986):

... in fixing the exact amount of penalties, the Commission, which is vested with considerable discretion in such matters, is required to exercise great care to ensure that the penalty is tailored to the particular facts of the case, considers any factors in mitigation as well as in aggravation, and does not impose unduly harsh or extreme sanctions while at the same time deters violations and achieves the objectives of the law. (Case citation omitted.) Obviously, “[t]he prescription of fair penalty amounts is not an exact science,” and “[t]here is a relatively broad range within which a reasonable penalty might lie.” (Case citation omitted.)

Universal Logistic Forwarding Co., Ltd., 29 S.R.R. 323, 333 (ALJ 2001), *adopted in relevant part*, 29 S.R.R. 474 (2002). No one statutory factor is to be weighed more heavily than any other. *Refrigerated Container Carriers Pty. Ltd.*, 28 S.R.R. at 805-806.

BOE has the burden of establishing that a civil penalty should be imposed, and if so, the amount of the civil penalty that should be assessed. The first question that must be answered in determining a civil penalty is whether the violation was willfully and knowingly committed. *Stallion Cargo, Inc.*, 29 S.R.R. at 678. To assess a civil penalty in the higher range, the evidence must establish that the violation was willful and knowing.

In discussing the willful and knowing requirement, the Commission stated:

In order to prove that a person acted “knowingly and willfully,” it must be shown that the person has knowledge of the facts of the violation and intentionally violates or acts with reckless disregard or plain indifference to the Shipping Act, or purposeful or obstinate behavior akin to gross negligence. [*Portman Square Ltd.*, 28 S.R.R. 80, 84-85 (ALJ 1998); *Ever Freight Int’l Ltd.*, 28 S.R.R. 329, 333 (ALJ 1998)]. The Commission has further held that a person’s “‘persistent failure to inform or even to attempt to inform himself by means of normal business resources might mean that a [person] was acting knowingly and willfully in violation of the Act.’” *Id.* at 84 (quoting *Misclassification of Tissue Paper as Newsprint Paper*, 4 F.M.B. 483, 486 (1954)); see also *McLaughlin v. Richland Shoe Co.*, 486 U.S. 128, 133 (1988); *Trans World Airlines, Inc. v. Thurston*, 469 U.S. 111, 128 (1985); *United States v. Illinois Cent. R.R. Co.*, 303 U.S. 239, 242-43 (1938).

Rose Int’l, Inc., 29 S.R.R. at 164-165. See also *Pacific Champion Express Co., Ltd.*, 28 S.R.R. 1397, 1403 (2000) (similar language).

Once the first question – whether the “violation was willfully and knowingly committed,” *Stallion Cargo, Inc.*, 29 S.R.R. at 678 – has been answered, the eight factors set forth in section 13(c) must be weighed and balanced, bearing in mind the maximum penalty that may be assessed for the violation. See *Universal Logistic Forwarding Co., Ltd.*, 29 S.R.R. at 332-333 (determining a civil penalty “requires the weighing and balancing of eight factors set forth in law”).

Although the Commission may in its discretion determine how much weight to place on each factor, the Commission must make specific findings with respect to each of the factors set forth in section 13(c), regardless of whether the party on whom a fine will be imposed has participated in the hearings against him.

Merritt v. United States, 960 F.2d 15, 17 (2d Cir. 1992).

b. Factors

The evidence shows that the corporate respondents operated as NVOCCs in violation of the Shipping Act. The first issue in determining the remedy is whether the corporate respondents willfully and knowingly committed the violations. As explained below, the evidence supports a finding that the corporate respondents willfully and knowingly committed the violations.

i. Willfully and Knowingly

A corporate officer’s knowledge acquired before creation of the corporation may be imputed to the corporation when it is present in the officer’s mind while the officer is acting for the corporation. *Parks Int’l Shipping, Inc.*, *Cargo Express Int’l Shipping, Inc.*, *Bronx Barrels & Shipping*

Supplies Shipping Center, Inc., and Ainsley Lewis, FMC No. 06-09 (ALJ Feb. 5, 2010) (Initial Decision) (citing 1 James D. Cox & Thomas Lee Hazen, *Cox & Hazen on Corporations*, § 8.15, at 359 (2d ed. 2003)).

International Shipping Solutions and Dolphin acted willfully and knowingly through their owners, Baruch Karpick and Megan Karpick. Prior to opening International Shipping Solutions and Dolphin, Baruch Karpick and Megan Karpick owned and operated Globe Movers, an international moving company which is not a party to this action. F. 3. Globe Movers closed at least in part because of consumer complaints and because there was one NVOCC that would not work with Globe Movers because it was unlicensed. F. 4. This should have put Baruch Karpick and Megan Karpick on notice of the need to maintain a license prior to opening either International Shipping Solutions or Dolphin.

Moreover, on October 23, 2003, less than two months after forming International Shipping Solutions, Megan Karpick met with Commission area representative Andrew Margolis who asked whether their company had a license from the Commission. F. 11. In addition, the majority of the Dolphin shipments were made after the summer of 2004, when Martin McKenzie said he read parts of the Shipping Act. F. 45. Given their experience with the shipping industry, including having a history of problems within the industry, Baruch Karpick and Megan Karpick knew or should have known about the requirements of the Shipping Act prior to opening International Shipping Solutions and Dolphin.

Worldwide Relocations acted willfully and knowingly through its owner, Patrick Costadoni. Prior to opening Worldwide Relocations, Patrick Costadoni worked at Globe Movers and believed that one NVOCC would not work with Globe Movers because it was unlicensed. F. 52. Moreover, Patrick Costadoni investigated applying for an NVOCC or freight forwarding license with his father in August or September of 2004. F. 60. Thus, Patrick Costadoni was on notice of the need to maintain a license prior to opening Worldwide Logistics.

Boston Logistics and Tradewind acted willfully and knowingly through their owner, Lucy Norry. Lucy Norry, Patrick Costadoni's mother, worked for Worldwide Relocations (and was listed as president and later as treasurer) prior to opening Boston Logistics and Tradewind. F. 54, F. 56. Lucy Norry knew or should have known about the Shipping Act requirements prior to opening Boston Logistics and Tradewind, after her son had investigated obtaining a license from the Commission using his father as the qualified individual. F. 60. Indeed, Patrick Costadoni was a consultant in forming the companies and as such would have passed on his knowledge. F. 88, F. 108. Accordingly, Lucy Norry knew or should have known about the requirements to obtain a license and bond and to file a tariff.

Moving Services and Global Direct Shipping acted willfully and knowingly through its owner, Sharon Fachler. Sharon Fachler also ran another company, Moving Services International ("MS International"), which is not a named respondent. On June 24, 2004, Sharon Fachler, through MS International, applied for an NVOCC license, which was not granted. F. 130. So, at least by June 24,

2004, he was aware of and had applied for a license. The majority of the Moving Services violations and all of the Global Direct Shipping violations occurred after this application was filed. F. 141. In addition, the use of multiple corporations and corporate addresses, some of which were fictitious, suggests that Sharon Fachler was attempting to conceal his activities. See F. 144-45. An emailed from Global Direct Shipping dated June 13, 2005, stated: "Global Direct Shipping's agents are bonded, insured and licensed by the US Federal Maritime Commission." F. 163. Therefore, the weight of the evidence shows that Sharon Fachler had knowledge of the requirements of the Shipping Act.

Because the corporate respondents acted willfully and knowingly, they may be subject to higher civil penalties, depending on the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require. Due to the finding regarding piercing the corporate veil, section III.H.2, *infra*, mitigating factors related to the individual respondents will be considered in determining the corporate respondents' civil penalties. In addition, given the penalties ultimately imposed, the finding that the violations were committed willfully and knowingly is not necessary to the decision.

ii. Nature, Circumstances, Extent, and Gravity of the Violations

In this case, the number of consumer complaints is striking. Consumer complaints are not required to find a violation under the statute; however, they are relevant to determining the nature, circumstances, extent, and gravity of the violation. The Commission's Office of Consumer Affairs and Dispute Resolution Services ("CADRS") reported: six complaints against International Shipping Solutions, forty complaints against Dolphin, one hundred fifty-four complaints against Worldwide Relocations, six complaints against Tradewind, thirty-four complaints against Moving Services, and forty complaints against Global Direct Shipping. F. 27, F. 46, F. 78, F. 121, F. 142, F. 169. Dolphin had more complaints than completed shipments possibly because there were shipments still in warehouses and bookings that were not made. F. 47.

Boston Logistics is the only corporate respondent for which CADRS did not report receiving any complaints. F. 102. Although CADRS did not receive any complaints against Boston Logistics, there is a shipper complaint in the files which indicates that the shipper was charged extra fees and which alleges that "in order to secure the extra charges that were beyond those stated in the contract, you withheld the release of my household goods and threatened to have them shipped back and auctioned." F. 103. Thus, there is at least some evidence of consumer complaints against all of the corporate respondents.

There is not sufficient evidence for any of the complaints to determine the nature, extent, or validity of the complaint, whether it was resolved, and what loss, if any, was suffered by the proprietary shipper. Although Worldwide Relocations has the highest number of complaints, the evidence also suggests that it may have handled significantly more total shipments than the other

respondents. Without accurate numbers of total shipments and consumer complaints for each respondent, it is difficult to tell which respondent had a proportionately larger number of complaints. So, while this factor weighs against the respondents, it is not the most significant factor in determining the civil penalty.

iii. Degree of Culpability, History of Prior Offenses, Ability to Pay, and Other Matters Justice May Require

Worldwide Relocations was Patrick Costadoni's first attempt at running an international shipping company while Boston Logistics was Lucy Norry's first attempt at running an international shipping company, which may limit their degree of culpability. Baruch Karpick and Megan Karpick ran an international shipping company which had problems prior to opening International Shipping Solutions and Dolphin. This does not weigh in their favor.

None of the respondents has a history of prior Shipping Act violations. *See* BReply at 43. This factor weighs in favor of the respondents.

Respondents Baruch Karpick, Sharon Fachler, Moving Services, and Global Direct Shipping did not participate in these proceedings and, therefore, there is limited information about their ability to pay. This lack of cooperation may have also impacted the ability to fully account for the actual number of violations. Because of their lack of cooperation and resulting sanctions, these respondents will be considered to have the ability to pay a civil penalty.

Corporate respondents International Shipping Solutions, Dolphin, Worldwide Relocations, Boston Logistics, and Tradewind are no longer in business and therefore no longer generating income. BReply at 48, F. 28, F. 49. To some extent, each of these corporate respondents cooperated in discovery. The evidence therefore supports a finding of a limited ability to pay a civil penalty. This limited ability to pay, as well as the respondents' cooperation with discovery which allowed a favorable determination on this element, weighs in favor of these respondents and has been considered in determining the appropriate civil penalty for these corporate respondents.

Individual respondents Megan Karpick, Martin McKenzie, Patrick Costadoni, and Lucy Norry cooperated with discovery and provided information regarding their financial status. From this information, BOE has concluded that these individuals "have little ability to pay significant civil penalties." This limited ability to pay, as well as the respondents' cooperation with discovery which allowed a favorable determination on this element, weighs in favor of these respondents and has been considered in determining the appropriate civil penalty for the companies controlled by these individual respondents.

It appears that Sharon Fachler has continued to be involved with international moving companies that have not complied with the requirements of the Shipping Act. F. 171-76. The parties have not raised any other matter to consider regarding the imposition of civil penalties in this matter.

c. Civil Penalty Amounts

BOE argues that penalties do not have to be assessed on a per violation basis. BOE therefore provides a recommended total penalty against each individual respondent. These recommendations range from \$200,000 for Dolphin, with the fewest number of violations, to a maximum of \$900,000 for Worldwide Relocations, with the largest number of violations.

However, this recommendation places an unreasonably high penalty on those with fewer violations. Understandably, BOE wants to deter even a minimal number of violations. However, the per violation range recommended by BOE is not sufficiently justified. The highest penalty per violation would be over twenty thousand dollars against Boston Logistics while the lowest penalty per violation would be less than three thousand two hundred dollars against Worldwide Relocations. Considering that Boston Logistics has no ability to pay, no CADRS complaints, and cooperated and participated in the proceedings, it is not rational to give it the highest per violation penalty. In addition, the recommendations do not sufficiently take into account the relevant factors, including the ability to pay, consumer complaints, cooperation, and lack of prior Shipping Act violations.

Other cases have imposed civil penalties on a per violation basis and the statute sets a maximum penalty “for each violation.” *Stallion Cargo*, 29 S.R.R. at 682; *Refrigerated Container Carriers Pty. Ltd.*, 28 S.R.R. at 806; 46 U.S.C. § 41107(a). Upon consideration of the evidence, the arguments of the parties, and balancing the evidence relevant to the section 13(c) factors – the nature, circumstances, extent, and gravity of each violation, respondents’ degree of culpability, respondents’ lack of history of prior offenses, respondents’ limited ability to pay a civil penalty, and other matters as justice may require – in light of the obligation to ensure that the penalty be tailored to the particular facts of the case and not imposing unduly harsh or extreme sanctions while at the same time deterring violations and achieving the objectives of the law, a civil penalty against respondents in the amounts discussed below and set forth in the chart in the Order, section IV, *infra*, will be assessed.

Worldwide Relocations was Patrick Costadoni’s first attempt at running an international shipping company while Boston Logistics was Lucy Norry’s first attempt at running an international shipping company. Patrick Costadoni and Lucy Norry were forthcoming in their testimony. Moreover, they appeared to fully cooperate with discovery requests. Patrick Costadoni attempted to assist proprietary shippers when Worldwide Relocations went out of business by notifying the shippers and providing releases to carriers. Moreover, they have a limited ability to pay. Accordingly, a civil penalty of \$3000 per violation is assessed against Worldwide Relocations, Boston Logistics, and Tradewind.

Baruch Karpick and Megan Karpick ran an international shipping company which had problems prior to opening International Shipping Solutions and Dolphin. Megan Karpick cooperated in discovery, although the information available regarding the operations of both companies is limited which may have impacted the ability to fully account for the actual number of violations. Accordingly, a civil penalty of \$4000 per violation is assessed against International Shipping Solutions and Dolphin.

Moving Services and Global Direct Shipping did not cooperate with discovery and provided no testimony. Pursuant to the sanctions imposed, they have an ability to pay. The only factor which weighs in their favor is the lack of prior violations although this is offset by an indication that Sharon Fachler may continue to be involved in international shipping companies in some way. Accordingly, a civil penalty of \$6000 per violation is assessed against Moving Services and Global Direct Shipping.

2. Piercing the Corporate Veil

a. Parties' Arguments

BOE argues that responsibility for violations of the Shipping Act can be imposed on named individual respondents by piercing the corporate veil and disregarding the shield of protection from liability afforded by their respective corporate entities. BOE asserts that the overriding principle that permits the piercing of the corporate veil under the federal common law is to avoid injustice and that the corporate entity may be disregarded in the interests of public convenience, fairness, and equity. BOE contends that in applying the federal common law, the federal courts look closely at the purpose of the statute in question to determine whether it places importance on the corporate form, an inquiry that gives less respect to the corporate form than does the strict alter ego doctrine, and that the corporate form is not important to the regulatory goals of the Shipping Act. BOE concludes that the facts of this case warrant holding the individual respondents accountable for the violations of law that occurred with their knowledge and committed by them or by other employees under their direction and authorization.

Respondent Patrick Costadoni argues that the corporate veil should not be pierced because BOE has not provided any evidence that Respondent Patrick Costadoni, individually, was operating as an NVOCC in violation of the Shipping Act. Patrick Costadoni contends that Worldwide Relocations was a separate corporation which complied with the requirements under Florida law for the filing of corporate paperwork, established separate corporate bank accounts and credit cards, retained separate companies to handle bookkeeping, payment of bills, and corporate filings, and had around thirteen employees. Patrick Costadoni argues that the evidence does not demonstrate that he, at any time, attempted to circumvent the provisions of a statute.

Respondent Megan Karpick argues that applying the factors presented in BOE's lead case (*Williamson*), that the International Shipping Solutions and Dolphin corporate shields should not be pierced as there is no factual evidence of intermingling of funds, failure to follow formal legal requirements for the corporation, or overlap in ownership, officers, directors, or personnel. KPFF at 14.

The other respondents did not participate or did not specifically address this issue.

b. Legal Standard

BOE argues that in deciding whether to disregard the corporate status of an entity, several factors may be considered, including: intermingling of funds; failure to follow formal legal requirements for the corporation; overlap in ownership, officers, directors, or personnel; and payment or guarantee of corporation debts. BPFF at 48 (citing *Williamson v. Recovery Ltd. P'ship*, 542 F.3d 43, 53 (2d Cir. 2008); *Budisukma Permai SDN BHD v. N.M.K. Products & Agencies Lanka (Private) Ltd.*, 606 F.Supp.2d 391, 399 (S.D.N.Y. 2009)). BOE points out that “there is no set rule as to which or how many of these factors must be present to warrant piercing the corporate veil. The guiding principle applied by the courts is that liability will be imposed ‘when doing so would achieve an equitable result.’” BPFF at 48 (quoting *Williamson*, 542 F.3d at 53).

Respondent Patrick Costadoni contends that:

the federal common law alter ego rule requires that three elements be proven in order to pierce the corporate veil:

- (1) Control, not mere majority or complete stock control, but complete domination, not only of finances, but of policy and business practices in respect to the transaction attacked so that the corporate entity as to this transaction had at the time no separate mind, will, or existence of its own; and (2) Such control must have been used by the defendant to commit fraud or wrong, to perpetrate the violation of a statutory or other positive legal duty, or a dishonest and unjust act in contravention of plaintiff's legal rights; and (3) The aforesaid control and breach of duty must proximately cause the injury of unjust loss complained of.

CPFF at 6-7 (quoting *United Steel Workers of Am., AFL-CIO-CLC v. Connors Steel Co.*, 855 F.2d 1499, 1506 (11th Cir. 1988)).

Respondent Costadoni acknowledges that some Federal Courts have allowed the piercing of the corporate veil in the interest of justice, noting that it “is well settled that the fiction of the corporate entity must be disregarded whenever it has been adopted or used to circumvent the provisions of a statute.” *Casanova Guns, Inc. v. Connally*, 454 F.2d 1320 (7th Cir. 1972). Respondents Megan Karpick and Martin McKenzie argue that according to BOE’s own case law, it is not appropriate to pierce the corporate veil, because “BOE has presented no factual evidence of any ‘intermingling of funds, failure to follow formal legal requirements for the corporation, [or] overlap in ownership, officers, directors or personnel.’” KPFF at 14 (citing *Williamson*, 542 F.3d at 53). The other respondents did not participate in the briefing and have not addressed the issue.

The federal standard for when it is proper to pierce the corporate veil is notably imprecise and fact intensive. *Bhd. of Locomotive Engineers v. Springfield Terminal Ry. Co.*, 210 F.3d 18, 26 (1st Cir. 2000); Note, *Piercing the Corporate Law Veil: The Alter Ego Doctrine Under Federal Common Law*, 95 Harv. L. Rev. 853 (1982). Federal courts are not bound by the “strict standards of the common law alter ego doctrine which would apply in a tort or contract action.” *Capital Tel. Co. Inc. v. FCC*, 498 F.2d 734, 738 (D.C. Cir. 1974). Among the factors the Commission has considered in piercing the corporate veil are: “the nature of the corporate ownership and control, the failure to maintain adequate corporate records and minutes, and the failure to follow corporate formalities, including the approval of stock issues by an independent board of directors.” *Ariel Mar. Group, Inc.*, 24 S.R.R. 517, 530 (1987).

Even utilizing the *United Steel Workers* standard cited by Respondent Patrick Costadoni, all of the respondents *sub judice* share some factors which weigh in favor of piercing the corporate veil. All of these respondents were involved in a succession of virtual companies, existing primarily on the Internet. The companies were created and advertised as international moving companies. However, none of the companies posted a tariff, obtained a license, or posted a bond as required by the Shipping Act. Essentially, these companies were formed to provide a service in contravention of statutory requirements, to commit a wrong, and to violate a statute. The issue of control; however, must be reviewed separately for each Respondent.

i. Baruch Karpick

International Shipping Solutions: There is no evidence of corporate formalities beyond the initial corporate filing for International Shipping Solutions, which was established as a Florida for profit corporation on September 8, 2003. F. 6. Baruch Karpick was International Shipping Solutions’s sole director and registered agent and his wife, Megan Karpick, was vice-president of operations and ran the corporation, including sales management, dispatching, and control of finances. F. 6-7. This husband and wife team established and controlled International Shipping Solutions.

Moreover, the evidence shows that Baruch Karpick and Megan Karpick opened a series of companies, with Globe Movers followed by International Shipping Solutions and Dolphin, to operate as NVOCCs without following the requirements of the Shipping Act and while avoiding their responsibilities to shipping consumers. International Shipping Solutions and Dolphin used the same location and shared some of the same employees and essentially used different names to sell the same service. F. 30. Accordingly, the evidence is sufficient to pierce the corporate veil and hold Baruch Karpick personally liable on a joint and several basis with Megan Karpick for the acts of International Shipping Solutions.

ii. Megan Karpick

International Shipping Solutions: There is no evidence of corporate formalities beyond the initial corporate filing for International Shipping Solutions, which was established as a Florida for profit corporation on September 8, 2003. F. 6. Baruch Karpick was International Shipping

Solutions's sole director and registered agent and his wife, Megan Karpick, was vice-president of operations and ran the corporation, including sales management, dispatching, and control of finances. F. 6-7. Megan Karpick used a number of different names. F. 8. She was the primary person who communicated with representatives from the Commission about consumer complaints. F. 13-19. This husband and wife team established and controlled International Shipping Solutions.

Moreover, the evidence shows that Baruch Karpick and Megan Karpick opened a series of companies, with Globe Movers followed by International Shipping Solutions and Dolphin, to operate as NVOCCs without following the requirements of the Shipping Act and while avoiding their responsibilities to shipping consumers. International Shipping Solutions and Dolphin used the same location and shared some of the same employees and essentially used different names to sell the same service. F. 30. Accordingly, the evidence is sufficient to pierce the corporate veil and hold Megan Karpick personally liable on a joint and several basis with Baruch Karpick for the acts of International Shipping Solutions.

Dolphin International Shipping: Dolphin was established as a Florida for profit corporation on February 4, 2004. F. 29. There is no evidence of corporate formalities beyond the initial corporate filing. Shares were never issued for the Dolphin corporation. F. 38. Megan Karpick used the title of president and was listed as the sole director of Dolphin. F. 29. Megan Karpick did everything at Dolphin, including logistics, sales support, customer relations, and service provider relations. F. 31. Dolphin was significantly undercapitalized, as indicated by the repeated infusions of funds required by Martin McKenzie. F. 33. Baruch Karpick was initially involved in running the company, while Martin McKenzie was training to run the company. F. 32-33. However, both of them only had a limited involvement. The preponderance of the evidence shows that Megan Karpick was the driving force behind Dolphin.

Moreover, the evidence shows that Megan Karpick, with Baruch Karpick, opened a series of companies, with Globe Movers followed by International Shipping Solutions and Dolphin, to operate as NVOCCs without following the requirements of the Shipping Act and while avoiding their responsibilities to shipping consumers. International Shipping Solutions and Dolphin used the same location and shared some of the same employees and essentially used different names to sell the same service. F. 30. Accordingly, the evidence is sufficient to pierce the corporate veil and hold Megan Karpick personally liable, on a joint and several basis, for the acts of Dolphin International Shipping.

iii. Martin McKenzie

Dolphin International Shipping: Martin McKenzie did not exert sufficient control over Dolphin to pierce the corporate veil to reach him. Martin McKenzie invested in Dolphin, was learning the business, and planned to open an office in Chicago. F. 34. He did not have a title and only received salary for May and June. F. 34. Martin McKenzie assumed personal obligations on behalf of Dolphin, F. 35, indicating that he was a guarantor of a limited subset of Dolphin obligations to former investors. He was not involved with Dolphin when it originally opened, and it is not clear how active he was in day to day operations, especially as he was commuting from Chicago during at

least part of the time he was involved. F. 34. The preponderance of the evidence shows that Megan Karpick, his current wife, controlled or operated Dolphin. Given the evidence indicating his trainee role, the fact that he did not open a satellite office, and his lack of prior knowledge of the shipping industry, there is not sufficient evidence to find Martin McKenzie personally liable for the acts of Dolphin International Shipping.

iv. Patrick Costadoni

Worldwide Relocations: Corporate formalities were not followed at Worldwide Relocations. Misleading paperwork filed with the State of Florida establishing the corporation listed the director and president as Lucy Norry, Patrick Costadoni's mother, who was named as president to conceal the true ownership of the corporation, because Patrick Costadoni was still working for Globe Movers, a competitor. F. 54. Lucy Norry did not initially work at Worldwide Relocations, but rather was employed at another transportation company. F. 55. No shares of Worldwide Relocations were issued. F. 50. The misleading formation and lack of corporate formalities beyond filing the initial paperwork and opening a bank account weigh against respecting the corporate form.

Patrick Costadoni directed and controlled the day to day operations of Worldwide Relocations. Work was conducted out of Patrick Costadoni's home. He started with just himself, clerical support, and one other employee, although he hired more employees as the business grew. F. 57. When he moved, the company moved to his new home address. F. 57. Patrick Costadoni controlled Worldwide Relocations's finances through control of the bank account, performing all of the bookkeeping, and taking care of all of the company finances prior to retaining a non-full-service bookkeeper and accounting firm in the summer of 2004. F. 58. Corporate charge cards were issued in the name of the corporation and in Patrick Costadoni's name. F. 58. He was clearly the main force driving the creation, day-to-day operation, and finances of Worldwide Relocations.

When it became clear that Worldwide Relocations was no longer a viable company, Patrick Costadoni, under his name as CEO, mailed out letters to both proprietary shippers and NVOCCs explaining the situation and encouraging them to work out delivery and payment arrangements. F. 80. In his deposition he said: "we weren't a viable company at that point, I wasn't a viable company, . . . I couldn't pay for anything because I had no assets myself." F. 80. Patrick Costadoni was so intertwined with the corporation, that he did not even describe himself as separate. The evidence is more than sufficient to pierce the corporate veil and hold Patrick Costadoni personally liable, on a joint and several basis, with Worldwide Relocations.

v. Lucy Norry

Boston Logistics: Corporate formalities were not followed at Boston Logistics. Misleading paperwork filed with the State of Florida establishing the corporation listed Elizabeth Hudson, Patrick Costadoni's girlfriend, as the president, secretary, treasurer, and director, even though she was really a figurehead with a very limited role. F. 84. Boston Logistics was formed exclusively from Lucy Norry's investment of approximately \$10,000. F. 85. Elizabeth Hudson thought Lucy "was hoping

this would be her last go at it and [she would] make a little nest egg for herself.” F. 85. Lucy Norry also used the name Lina Serruti. F. 85. The misleading formation and lack of corporate formalities beyond filing the initial paperwork and opening a bank account weigh against respecting the corporate form.

Lucy Norry directed and controlled Boston Logistics. She ran Boston Logistics on a day to day basis, leased the office space, served as the accountant, issued invoices, produced shipping instructions, and dispatched shipments. F. 86. Lucy Norry maintained control of Boston Logistics’s bank accounts by virtue of possession of the debit card linked to the accounts as well as a signature stamp in Elizabeth Hudson’s name, which was used to sign checks. F. 87. There is evidence of commingling of assets, including Hudson’s use of the company’s debit card for a personal medical expenses. F. 84. Lucy Norry was clearly the main force driving the creation, day-to-day operation, and finances of Boston Logistics.

Boston Logistics did not operate as a separate and independent company. For part of its existence, Boston Logistics operated out of Patrick Costadoni’s home. F. 88. In two cases, it is not entirely clear whether the shipping customer was dealing with Boston Logistics or Tradewind Consulting. One bill of lading lists the proprietary shipper’s name c/o Boston Logistics Corp. but with Tradewind’s mailing address while there is a money order with the name “Tradewind Logistics Inc.” printed by hand on it. F. 104, F. 105. Thus, it appears that even employees of Boston Logistics and Tradewind Consulting were not always clear which company they were representing. The evidence is sufficient to pierce the corporate veil and hold Lucy Norry personally liable, on a joint and several basis, with Boston Logistics.

Tradewind Consulting: Corporate formalities were not followed at Tradewind Consulting. The initial corporate filing was misleading because Angel Sanchez agreed to the use of his name as president of Tradewind in exchange for a fee but without the intention of operating the company. F. 107. Tradewind was formed exclusively from Lucy Norry’s investment of approximately \$10,000. F. 110. The company’s name was not even used consistently; business correspondence used the names Tradewind Consulting, TradeWind Consulting, Tradewind Business Consulting, Inc., and Tradewind Logistics. F. 111. The misleading formation and lack of corporate formalities beyond filing the initial paperwork and opening a bank account weigh against respecting the corporate form.

Lucy Norry exerted substantial control and dominion over Tradewind. She controlled Tradewind’s bank accounts. F. 110. She served as the accountant for Tradewind and issued invoices, produced shipping instructions, and dispatched shipments. F. 110. Lucy Norry was clearly the main force driving the creation, day-to-day operation, and finances of Tradewind.

Tradewind did not operate as a separate and independent company. Tradewind operated from the living room of Patrick Costadoni’s Florida home, while Patrick Costadoni worked in the kitchen. F. 109. However, the address used in correspondence and listed as the principle place of business was Lucy Norry’s nephew’s address in New York. F. 109. In two cases, it is not entirely clear whether the shipping customer was dealing with Boston Logistics or Tradewind Consulting. One bill of lading

lists the proprietary shipper's name c/o Boston Logistics Corp. but with Tradewind's mailing address while there is a money order with the name "Tradewind Logistics Inc." printed by hand on it. F. 104, F. 105. Thus, it appears that even employees of Boston Logistics and Tradewind Consulting were not always clear which company they were representing. The evidence is sufficient to pierce the corporate veil and hold Lucy Norry personally liable, on a joint and several basis, with Tradewind Consulting.

vi. Sharon Fachler

Moving Services: Sharon Fachler established Moving Services in 2001 as a limited liability corporation under Florida law, designating himself as manager of the corporation. F. 125. He was the sole owner and corporate officer. F. 125. He was the dominant individual in controlling the operations of respondent Moving Services and was actively involved in the activities of the company by himself or directing others. F. 126. The misleading formation and lack of corporate formalities beyond filing the initial paperwork and opening a bank account weigh against respecting the corporate form.

Sharon Fachler used another company to carry out his illegal activities. In 2004, he established MS International, a limited liability company in Florida, listing himself as manager. F. 127. MS International is not a named respondent in this proceeding; however, Moving Services and MS International had the same principal business address. F. 128. Sharon Fachler also commingled the funds of both companies as MS International checks were issued to pay the bills of Moving Services. F. 128. The evidence is sufficient to find Sharon Fachler personally liable, on a joint and several basis, for the civil penalty assessed against Moving Services.

Global Direct Shipping: BOE contends that Sharon Fachler never incorporated Global Direct Shipping and therefore that he is not entitled to any corporate protections. BReply at 34. There is no evidence to contradict this assertion. Moreover, the evidence shows that Sharon Fachler controlled Global Direct Shipping by directing its employees (primarily his relatives), controlling the bank accounts, and through another corporation, Billing and Payment Systems, which he also controlled. F. 150, F. 154. Accordingly, Sharon Fachler is personally liable, on a joint and several basis, for the civil penalty assessed against Global Direct Shipping.

3. Cease and Desist Orders

"[T]he general rule is that [cease and desist] orders are appropriate when there is a reasonable likelihood that respondents will resume their unlawful activities." *Portman Square Ltd.*, 28 S.R.R. at 86, citing *Alex Parsinia d/b/a Pac. Int'l Shipping and Cargo Express*, 27 S.R.R. 1335, 1342 (ALJ 1997). A cease and desist order must be tailored to the needs and facts of the particular case. *Marcella Shipping Co. Ltd.*, 23 S.R.R. 857, 871-872 (ALJ 1986). The Commission has stated that "[c]ourts have sustained the use of a cease and desist order directed to individuals to prevent avoidance of the legal consequences of the past violations by the creation of new business entities to

be used in the same or similar patterns of activity in the future.” *Ariel Mar. Group, Inc.*, 24 S.R.R. at 528.

BOE requests that both corporate and individual respondents be ordered to cease and desist from violating sections 8 and 19 of the Shipping Act and asks for the issuance of a cease and desist order: (1) directing all respondents to cease and desist from holding out or operating as an OTI in the United States foreign trades until and unless a license is issued by the Commission and respondents publish a tariff and obtain a bond pursuant to Commission regulations, and (2) prohibiting each individual respondent from serving as an investor, owner, shareholder, officer, director, manager, or administrator in any company engaged in providing ocean transportation services in the foreign commerce of the United States except as a bona fide employee of such an entity.

BOE contends that it is not difficult for an individual to form a company, establish a website, solicit business, generate revenue by contracting with shippers to provide service, close the website and business without performing the contracted services, and subsequently continue operations by establishing a new company with a new name and a new website. BReply at 55. In fact, in this case, all of the individual respondents, except Martin McKenzie, were involved in multiple OTIs.

A preponderance of the evidence demonstrates that respondents have histories of providing ocean transportation services in violation of the Shipping Act via multiple corporate forms. Therefore, there is a reasonable likelihood that respondents will continue or resume their unlawful activities. Accordingly, entry of a cease and desist order prohibiting respondents, except Martin McKenzie, from operating as an ocean transportation intermediary is appropriate and will be entered.

IV. ORDER

Upon consideration of the findings and conclusions set forth above, and the determination that the corporate respondents violated sections 8 and 19 of the Shipping Act (46 U.S.C. §§ 40501, 40901, and 40902) and the Commission’s regulations at 46 C.F.R. §§ 515.3, 515.21, and 520.3 by operating as ocean transportation intermediaries in the United States trades without obtaining licenses from the Commission, without providing proof of financial responsibility, and without publishing tariffs, it is hereby

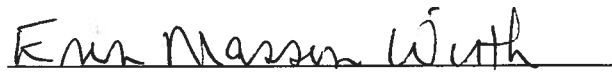
ORDERED that the claims alleging violations of section 10 of the Shipping Act, 46 U.S.C. § 41102, be **DISMISSED WITH PREJUDICE**.

It is **FURTHER ORDERED** that the corporate respondents and corresponding individual respondents listed below be jointly and severally liable for the corresponding civil penalties for willful and knowing violations of sections 8 and 19 of the Shipping Act of 1984, 46 U.S.C. §§ 40501, 40901, 40902, as follows:

Corporate Respondent	Individual Respondent(s)	BOE Request	Number of Violations	Penalty per Violation	Civil Penalty
International Shipping Solutions	Baruch Karpick, Megan Karpick	\$350,000	40	\$4000	\$160,000
Dolphin Int'l Shipping	Megan Karpick	\$200,000	10	\$4000	\$40,000
Worldwide Relocations	Patrick Costadoni	\$900,000	278	\$3000	\$834,000
Boston Logistics	Lucy Norry	\$250,000	10	\$3000	\$30,000
Tradewind Consulting	Lucy Norry	\$350,000	37	\$3000	\$111,000
Moving Services	Sharon Fachler	\$550,000	125	\$6000	\$750,000
Global Direct Shipping	Sharon Fachler	\$600,000	149	\$6000	\$894,000

It is **FURTHER ORDERED** that respondents International Shipping Solutions, Dolphin International Shipping, Worldwide Relocations, Boston Logistics, Tradewind Consulting, Moving Services, Global Direct Shipping, Baruch Karpick, Megan Karpick, Patrick Costadoni, Lucy Norry, and Sharon Fachler, cease and desist from holding out or operating as ocean transportation intermediaries in the United States foreign trades until and unless receiving licenses by the Commission, publishing tariffs, and obtaining bonds pursuant to the Shipping Act and Commission regulations.

It is **FURTHER ORDERED** that individual respondents Baruch Karpick, Megan Karpick, Patrick Costadoni, Lucy Norry, and Sharon Fachler cease and desist from serving as investors, owners, shareholders, officers, directors, managers, or administrators in any company engaged in providing ocean transportation services in the foreign commerce of the United States except as *bona fide* employees of such entities from the date that this Initial Decision becomes final.


 Erin Masson Wirth
 Administrative Law Judge